

The D.C. Freeway Revolt and the Coming of Metro
Part 8
The Metro Revolt

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Part 8

The Metro Revolt

Advancing Metro

On Saturday, January 2, Secretary Volpe sent a brief letter to General Graham regarding Metro's financial prospects. Secretary Volpe wrote that he "noted with increasing concern the mounting jeopardy into which the long-range financial plan . . . appears recently to have fallen." He asked General Graham, "Pursuant to my responsibilities in this area, I request that you take no further action on a new financial plan . . . until I have had an opportunity to review [it] . . . and possible alternatives" for finding the extra \$510 million needed to finish Metro construction."

Councilmember Moore, chairman of the WMATA board, replied that he welcomed Secretary Volpe's "review and help." He called on WMATA staff to honor the request. General Graham confirmed that he would comply with Secretary Volpe's request.

Jack Eisen reported:

An aide said Volpe's intention is to expedite the building of the system. A Metro official said he is confident that Volpe would reject any suggestion that the length or quality of the system be reduced

It was not clear yesterday whether Volpe acted completely on his own initiative, or had been asked to get involved in the Metro problem.

An aide said he understood that the Secretary's assistance was solicited by "a number of community leaders" not otherwise identified. [Eisen, Jack, "Volpe to Review Metro Cost Crisis," *The Washington Post and Times Herald*, January 5, 1971]

On January 6, Maryland's Board of Public Works agreed to release \$10 million to help its two Washington area counties may their \$15 million contribution to WMATA. However, release was dependent on receipt of current construction financing plans and clearance by State Attorney General Francis B. Burch that WMATA had satisfied all aspects of the mass transit bond statute the General Assembly had approved in 1970.

The three board members – Governor Mandel, Comptroller Goldstein, and State Treasurer John Leutkemeyer – expressed concerns about the ultimate cost of Metro and the Federal Government's commitment to the project. Governor Mandell, who suggested the cost could rise to \$3.5 or \$4 billion, wanted "factual figures and accurate figures I mean honest figures." Although Congress had authorized Federal funds for the present year, it was withholding the District share, prompting a concern that Congress might abandon the project and leave Maryland and Virginia to pay more for it. Goldstein asked, "Is there just going to be a big ditch dug and nothing else happens?"

Gladys Noon Spellman was one of the chief advocates to address the board in support of the funding. She was serving on the Metro board and the Washington Suburban Transit Commission, which was the conduit for the two Maryland counties' contributions to WMATA.

Although she conceded the counties were concerned about the long-term Federal commitment, she argued that the counties should make their payments with confidence that the project will be built.

She disclosed to the Public Works Board that in August 1969, as the District city council was deciding whether to advance the freeway system as a way of securing release of the Metro matching funds, she had warned council members that Prince George's County, where she lived, might pull out of the planned system. If the city council did not comply with Section 23 of the Federal-Aid Highway Act of 1968, county officials would lose confidence in the plan and withdraw from it. [Eisen, Jack, "Md. Acts On Metro Funds," *The Washington Post and Times Herald*, January 7, 1971; "Maryland Acts to Free Its Funds for Subway," *The Evening Star*, January 7, 1971]

On January 14, Carlton R. Sickles of Maryland became chairman of the WMATA board of directors, replacing District Councilman Moore in accordance with the annual rotation specified in the WMATA compact. Jay E. Richs of Arlington became first vice chairman while the Reverend Moore became second vice chairman.

That same day, WMATA staff proposed new minority hiring rules. The plan would require firms with \$500,000 or more in contracts to hire a specific number of minority employees in certain occupation classifications. The highest goal, 43 percent, would be for iron worker jobs by May 1974. Laborers, teamsters, roofers, cement masons, and brick layers would be excluded because local unions for those classifications consisted primarily of minority members. Carpenters, plasterers, and operating engineers also were excluded because they were "demonstrating affirmatively their intention of including minority group members within their ranks."

The staff plan also proposed a job training program for 220 minority members who, upon graduation, would be assured of jobs on the Metro construction project. Unions and the Federal government would fund the training program. [Kneece, Jack, "Minority Hiring Rules Offered For Subway," *The Evening Star*, January 14, 1971; Eisen, Jack, "Metro Acts to Bar Bias," *The Washington Post and Times Herald*, January 15, 1971]

WMATA held a seminar at Airlie House in Warrington, Virginia, with about 160 officials from Maryland, Virginia, and the District of Columbia to discuss the status of Metro. The key issue was how to pay for the 98-mile system. As WMATA Comptroller Lowe made clear, the Wall Street securities firms of Kuhn, Loeb and Company and Dillon, Read and Company had indicated that WMATA would not be able to market \$900 million in revenue bonds without a guarantee from the Federal Government or some tax means of retiring the bonds if revenue from fares were insufficient. The bonds would have to carry a 7.5-percent interest rate, not 5 percent as originally planned.

Officials discussed tax options, such as a payroll tax in the District or a regional tax, to be collected only if farebox revenues were insufficient. However, officials preferred other options, such as a regional gasoline tax or simply the Federal guarantee to make up the difference. Maryland and Virginia officials urged WMATA to pursue the Federal guarantee, but the

District's Chairman Hahn said that neither he nor Mayor Washington favored that approach at the time. They favored exploring tax options on a regional basis.

A week later, during a WMATA board meeting, Chairman Sickles asked about the District's "hard-line position" opposing the Federal guarantee and favoring a commuter tax. City Councilman Stanley Anderson, an alternate WMATA director, replied, "Chairman Hahn together with the mayor, the District WMATA board members and the rest of the District of Columbia Council reject at this time the WMATA staff recommendations."

The same day, however, Chairman McMillan of the House District Committee said he would oppose a commuter tax, which all area Members of Congress from Maryland and Virginia also would oppose. With the chairman of the House District Committee opposed, a commuter tax could not advance, leaving efforts to secure Federal backing of the revenue bonds the only practical option. The House Committee on Public Works would have jurisdiction on the necessary legislation.

Deputy Mayor Watt, a board member who was absent for the meeting, later disavowed Anderson's comments. "So far as I am concerned, as a member of the board, the matter is still very much open."

Aides to Secretary Volpe said he was considering a one-half percent District of Columbia payroll tax as a way to raise funds to back the bonds. The tax would apply to everyone working in the city, including suburban residents. Secretary Volpe was not available for comment.

[Eisen, Jack, "Tax Plan On Metro Hits Snag," *The Washington Post and Times Herald*, January 17, 1971; Kneece, Jack, "Area Subway Tax Suggested," *The Evening Star*, January 17, 1971; Kneece, Jack, "D.C. Opposes U.S. Prop for Subway bonds," *The Evening Star*, January 21, 1971; Meyer, Eugene L., and Eisen, Jack, "Subway Payroll Tax Eyed," *The Washington Post and Times Herald*, January 22, 1971]

Maryland officials received the requested information from WMATA, but it was not sufficient to allow release of the \$10 million to the two counties for their payments. WMATA submitted financial information based on the \$2.5-billion estimate, not the \$2.9-billion estimate. Comptroller Goldstein said the State would not release the funds until it received updated information:

We've got to have that information because otherwise our contribution will be a shot in the dark. It's not the spending of the \$10 million now we're so concerned about, but the future. What about the Federal contributions? Are the subdivisions going to end up having to pick up the entire burden?

Our sources in Washington tell us the price will be closer to \$4 billion than \$2.9 billion, and this will require a tremendous amount of money from within the State somewhere.

[Rowland, James B., "Subway Funds Hit New Snag," *The Sunday Star*, January 24, 1971]

Despite Maryland's explanation for its concerns, WMATA was assessing penalties on Montgomery and Prince George's Counties for failure to make the required payments on

January 2. As of the end of the month, the penalties totaled \$72,000. The District had been assessed \$590,000 in penalties for failure to make its payments on time – largely because of Chairman Natcher’s refusal to appropriate the matching funds.

The penalties were necessary to encourage jurisdictions to make their payments, but as Sickles explained, they served another purpose, too. The subway was investing idle funds for a return of 6 percent. “As you know, sometime we’ll have funds for a year or more before we use them. The interest was earmarked for executive and administrative costs.

The city was hopeful that if Chairman Natcher released 2 years of appropriations by August, the city’s payment of the 1971 contribution late plus the 1972 contribution early would erase all of the late penalties. [Kneece, Jack, “A Way Out of Subway Fund Crisis Proposed,” *The Sunday Star*, January 31, 1971]

The Volpe Plan

On February 14, the *Star* reported that President Nixon had “ordered his staff to work to end the congressional impasse which has held up \$34.2 million in funds for Washington’s subway and has imperiled its financial foundations.” An anonymous White House official told reporters, “We are working on what we consider is a good basis to get decisions made to make funds available to continue work on the subway.” The President hoped the funds would be included in the next supplemental appropriations bill.

The officials “refused to say exactly why the White House thinks Natcher will agree to release the subway money.” However, the White House hoped to help WMATA solve the financial problems caused by the increased cost estimate. [Horner, Garnett D., “Resolve Impasse On Subway Funds, Nixon Orders Staff,” *The Sunday Star*, February 14, 1971]

In an interpretive report, Stephen Green speculated that the situation was similar to 1969, when President Nixon resolved the situation in direct communications with Chairman Natcher. “The willingness of White House officials yesterday to discuss the possibility of a solution to the current impasse problems means that the President again has directly or indirectly been in contact with Natcher or will be in the near future.”

Chairman Natcher “has not always explained exactly what progress will convince him to release subway money.” The controversy over the North-Central Freeway clearly was one of the problems. He believed that Section 23 of the Federal-Aid Highway Act of 1968 ordered the city to begin construction after studying routes. Instead, the city suggested abandoning the freeway.

Green recalled the conference committee on the Federal-Aid Highway Act of 1970 when conferees agreed on a study of the North-Central Freeway. Representative Broyhill thought agreement on the study would convince Chairman Natcher to release the Metro funds:

While House-Senate conferees on the highway bill were agreeing to the additional year’s study of the North Central, Natcher, during a separate House-Senate conference on a supplemental appropriations bill, refused to permit the subway funds to be placed in the measure – the last supplemental money bill of the 91st Congress.

This action convinced “many congressmen” that the 1-year study had not satisfied Chairman Natcher. Alternatively, “inclusion of the new study in the highway bill came too late.” Green concluded:

Natcher may agree to include the subway money in the first supplemental appropriations bill to come out of the 92nd Congress, but Nixon may have to do quite a convincing job on Natcher.

Natcher has said that District freeways have been studied to death and what is needed is less talk and more action. [Green, Stephen, “Nixon Pushes Subway Replay,” Interpretive Report, *The Sunday Star*, February 14, 1971]

The financial issue had exposed rifts within WMATA between the city and its suburban partners. According to Jack Eisen, Chairman Sickles and other suburban officials “feel the District is taking an independent course without proper advance consultation.” They blamed the rift on Chairman Hahn. Although he was not on the WMATA board, he appointed the city council’s representative. He also had become chairman of COG on January 14. Taking office, he had suggested developing a transportation policy for the 1970s, not the 1950s, one stressing public transit over the private automobile:

The ideas that I have discussed about a transportation plan for the ‘70s come directly from the work that Secretary Volpe is developing in the Department of Transportation. I have been and expect to continue working closely with Secretary Volpe to create a sound transportation policy for the metropolitan area.

He saw COG as the body that can best embody those ideas on a regional basis “even though they may be controversial and may not all agree on the solutions.”

The WMATA board usually heard directly from Secretary Volpe. Instead, he was scheduled to announce his views in a speech on February 16 in a COG-sponsored forum at the District Building. Suburban members were alarmed by this change and the relationship between Secretary Volpe and Chairman Hahn:

They see, in the Volpe intervention, the danger of an impasse developing between city and suburban representatives. For example, because of the city’s special relationship to the federal government, its representatives might, under urging by high federal officials, hold out for support of a payroll tax as a way to solve its financial bind [even though suburban directors] might favor a federal guarantee.

A source in the District Building, demanding anonymity, had told reporters that Secretary Volpe was considering a tax. “At Metro headquarters, this source was assumed to be Hahn.” [Eisen, Jack, “Volpe Metro Plan Eagerly Awaited,” *The Washington Post and Times Herald*, February 14, 1971]

On the evening of February 16, 1971, Secretary Volpe addressed about 200 Washington area government leaders in a speech to COG. He came to the meeting, he said, “with ideas and concepts and dreams.” He explained:

As the President has said so eloquently, now is the time for a driving dream. Now is the time to stop asking what can't be done, and to go out and do what can be done. For what can be done, must be done.

I am tired of studies and projections and more studies and more projections. I am tired of those who consider the means the end, who produce dire predictions because they are unable to produce viable solutions.

In view of President Nixon's "personal commitment," Secretary Volpe wanted to offer his aid "in finding sophisticated solutions to your transportation problems." He would propose ideas that, if adopted, would "turn the Washington Metropolitan area into a transportation model for the Nation." This was more than just a dream because the "realities" were that in less than 5 years, millions of people would descend on Washington for the Nation's Bicentennial Celebration in 1976. Millions of people, he added, would be coming "to an area which barely manages to transport its own citizens to and from work each day."

Secretary Volpe offered a wide range of proposals covering access to Dulles International Airport (including use of air-cushion vehicles on the federally owned Dulles Access Road), creation of a regional airport authority to operate the area's three facilities (Dulles, National Airport, and Maryland's Friendship International Airport), free minibus service downtown, and pedestrian malls on closed city streets.

He wanted to restore a sense of humanism to the city's downtown streets. "The city must be a gathering place for people, not vehicles." To relieve what *Newsweek* magazine had recently called the agony of the commuter, the cornerstone of the plan "must be the encouragement of an assistance to all forms of public transit – the Metro, the bus system and the railroads."

The experimental bus lane on Shirley Highway was "very exciting." Before it began, the AB&W Company carried about 1,900 passengers during the morning rush hour. "With the exclusive use of reversible lanes, plus an additional 1½ miles of busway, the company is now carrying 4,300 passengers in the morning rush hour." The target date for opening the last 2½-mile segment of busway was April 1, 1972.

Service would be improved further with the introduction of "30 new modernized buses." In general, bus service throughout the area must be upgraded. "Accordingly, this Administration supports appropriation action which would bring about integrated operations between the Metro and all the bus companies in the area."

In addition, he encouraged the city to develop "an extensive program of pedestrian malls and plazas in the downtown area and in other parts of the city . . . from which autos are eliminated during daytime hours." He had walked on F Street during its experimental period of automobile restriction in the fall "and it was a most pleasant experience." If the District expanded the idea, he "would be very interested in having the Department help finance a mini-bus system to move shoppers through it."

He suggested:

I would also like to see the long-dormant plans to utilize the little-used or abandoned railroad lines in this area be revived and implemented.

He had asked the Federal Railroad Administration to explore this option in cooperation with COG.

Secretary Volpe also addressed the area's freeway-subway impasse:

In the two years since I have assumed the duties of Secretary of Transportation, I have seen a complete change of attitude on the part of people in our metropolitan areas toward the unrestricted building of freeways.

People were asking "intelligent and important questions about the routes, the designs and purposes of many of our urban freeways." He had been "impressed by the validity of their questions," but he also was "aware of the tremendous contributions highways and freeways have made to the way we live, work and pursue happiness." As an example of how transportation can blend with an urban environment, he said his Department was working with the District government to study alternatives for the elevated Whitehurst Freeway, which might be replaced by a tunnel to restore the scenic waterfront view from Georgetown.

Nearing the end of the speech, Secretary Volpe said, "I have saved for last the most important of our transportation challenges – the new Washington Metro Subway System":

Few things have taken so much of my attention as this new Washington subway. President Nixon has charged me personally to work with Washington officials to help bring the subway into being.

He and his staff had spent "many hours" working with local and State officials as well as Members of Congress to keep Metro construction moving forward. He was pleased that the Department "could lend the Metro \$57 million to prevent work stoppage" in 1970.

Metro faced the long-term problem that the cost was increasing, now up to almost \$3 billion. But immediate problems included the inability to sell \$900 million worth of bonds in the absence of some form of guarantee, such as a tax, to back them. All of those "dedicated to the cause of the Metro . . . are studying the various alternatives. I expect an effective solution can soon be announced."

In the meantime, certain actions were needed to relieve WMATA's short-term difficulties:

I have taken the necessary action to make available immediately \$68 million of Federal matching funds, already appropriated by the Congress.

He also was considering additional short-term loans, including short-term loans from UMTA. "The important thing is that this subway must continue" because the alternative was "strangulation" of the inner city or severe restrictions on automobile use.

Secretary Volpe told the officials that “all the Governments represented here tonight will have to display an increasingly higher level of cooperation.” He had already communicated with the area’s congressional representatives and the two Governors “to urge their cooperation in resolving these Washington metropolitan transportation problems.” They all were, he said, “very responsive.” He concluded:

And so, now it’s time to go to work.

Prior to the speech, Secretary Volpe had spent much of the day on the phone with congressional leaders discussing the area’s mass transit plans. Chairman Eagleton of the Senate District Committee was pleased by the \$68 million offer. He said:

This provides temporary relief to the Metro. I hope that the administration will continue its worthwhile efforts to devise an effective solution to the long range financing needs of Metro.

Jack Eisen noted that in announcing release of \$68 million, Secretary Volpe “did not spell out the degree of political risk it may entail on Capitol Hill.” A source told Eisen that the White House had told Secretary Volpe to release the \$68 million and to disclose his action in the speech. The problem was that the funds could be applied only to the two-thirds Federal share of project costs, not the District’s matching funds. Congressional sources told Eisen that to be legal, the funds “must be followed before the end of the fiscal year on June 30, by the appropriation of the city’s \$34 million.” Appropriations acts typically included a provision prohibiting the use of Federal funds until the local match was in hand.

Eisen reported that Chairman John J. McFall (D-Ca.) of the House Transportation Appropriations Subcommittee, which handled appropriations for Metro, said Secretary Volpe had telephoned the day before the speech to discuss ways to resolve the funding problem, but had not mentioned the \$68 million. Chairman McFall said he would not object to release of the funds, but observed that he agreed with Chairman Natcher that all Federal laws must be obeyed, including those requiring freeway construction.

In the meantime, General Graham said the \$68 million would allow Metro to continue making contract commitments through April. [Kneece, Jack, “Volpe Pledges Metro Funds – Broad Plan for Area,” *The Evening Star*, February 17, 1971; Eisen, Jack, “Subway Money Pledged,” *The Washington Post and Times Herald*, February 17, 1971]

The *Star* and *Post* were pleased by Secretary Volpe’s speech. “If enthusiasm were a substitute for achievement,” *Star* editors wrote, “this region’s transportation problems surely could have been solved by Transportation Secretary Volpe’s address to the metropolitan area Council of Governments.” The tidy sum of \$68 million “had been sitting on the shelf” because of Chairman Natcher’s hold on the matching funds:

Volpe apparently is now confident that his release of the frozen federal funds in this moment of crisis will be followed in due course by a release of the hostaged District appropriation, with no strings on use of the federal money in the meantime.

In view of the White House's anonymous talk of solutions, perhaps Secretary Volpe's optimism was justified. Still, no word had come from Capitol Hill indicating a breakthrough:

In listening to this lengthy speech, however, we had the distinct impression of having heard much of this same kind of talk before, from other high-level public officials, with very little thus far to show for it. Whether the result be any different this time will depend, we suspect, not so much on local activity as on how much continued initiative and enthusiasm for decision-making comes directly from the top. ["Volpe's Responsibility," *The Evening Star*, February 18, 1971]

Post editors also appreciated release of the \$68 million, but it "remains to be seen what Congress will do about the District's appropriation." These were short-term solutions. Ultimate solutions "must come from the local governments here, from Metro itself and from Congress." Overall, the editors wrote that "the Secretary did demonstrate – and persuasively – a most welcome concern on the part of the administration for flexible approaches, backed with federal aid." ["Secretary Volpe's Efforts to Help," *The Washington Post and Times Herald*, February 18, 1971]

Chairman McFall, the *Star* reported on February 19, had ordered a staff review of Secretary Volpe's release of \$68 million. He said he had no reason to think the release was illegal; the review was routine. The chairman, who had once served under Chairman Natcher, praised Secretary Volpe's initiative to solve Metro's fund crisis, but praised Chairman Natcher for his support of a balanced network freeways and subways to solve the area's transportation problems.

"Capitol Hill observers" and a "highly placed congressional source" helped reporters understand the actions. They saw Secretary Volpe's announcement as "an administration tactic to pressure Natcher into relenting on subway funds, signaling a new kind of executive-legislative confrontation far more significant than the issue of subway construction."

The source said no precedent existed for release of the funds in view of the "clear intent" that Federal funds be held until the District matching share was available:

The source said Volpe's move threatens to undermine one of the traditional means of congressional leverage – power over purse strings.

"What can we say," asked the source, "if other jurisdictions around the nation now used a District situation as a precedent to request matching funds before making their contribution?"

But the source conceded that the move probably will not be technical illegal until the District fails to produce its \$34.2 million share. Should the District fail to produce its share by June 30, end of the current fiscal year, he added, any irate taxpayer could ensnarl the subway works with a lawsuit.

Asked how he would counter congressional opposition, Secretary Volpe said:

I wish I was Solomon. All I can say is, I found through life that you can get more with honey than molasses.

When I have gone to a congressman – and it takes a great deal of patience at times – and when I have laid before them a proposal on the basis of its merits, and not try to guild the lily, I may not have convinced them the first time, but I’m a pretty . . . stubborn . . . guy and I have gone back.

We are using persistent persuasion. I think that’s the way to do it.

As for the North-Central Freeway, he said:

I have reviewed the North Central Freeway at some length. I’m convinced that you just cannot say that where the route was laid out is the right route for today. It might have been the right route five years ago or longer ago. But I think the Congress acted wisely in giving us an additional 12 months to see whether the railroad right-of-way or some other route is desirable or see whether the North Central Freeway is desirable at all. [Kneece, Jack, “House Staff Probe Asked of Subway Fund Release,” *The Evening Star*, February 19, 1971; Eisen, Jack, “Hill to Study Volpe Move On Subway,” *The Washington Post and Times Herald*, February 20, 1971]

The I-66 Problem in Virginia

A link from Washington, D.C., to Virginia’s Shenandoah Valley had always been part of the Interstate plan. Such a link appears on a map on page 7 of *Interregional Highways*, the 1944 report to Congress outlining the Interstate vision, showing the general location of routes of the recommended highway system. When the first designations took place in August 1947, the route was shown linking Washington to the north-south Interstate through the valley at Strasburg (farther north than shown in the 1944 general location map).

In 1957, when numbers were approved for the Interstate System, it was designated I-66 and the Shenandoah Valley route became I-81, with the two routes linked by an interchange in Front Royal. In the District, I-66 became part of the Inner Loop. As noted earlier, I-66 inside the Capital Beltway crossed the Potomac River on the Theodore Roosevelt Bridge and was to continue past the Watergate complex as the West Leg of the Inner Loop, then the North Leg parallel to New York Avenue, reaching I-95 north of the Capitol Building at the junction with the East Leg Freeway. FHWA’s 1971 *Interstate System Route Log and Finder List* indicated that I-66 was 79.6 miles long, with 75.4 miles in Virginia (the control points being Front Royal, Falls Church, Arlington to Washington). The list identified the District segment as 4.2 miles long.

The Potomac River Freeway carried the designation I-266; the even numbered prefix indicated the route was to connect with the Interstate System on both ends. It branched off of I-66 near the Spout Run Parkway in Virginia, crossed the Potomac River on the Three Sisters Bridge, then followed the Whitehurst Freeway along the Georgetown waterfront to connect with I-66 at K Street, NW.

The Virginia Department of Highways (VDH) built I-66 from I-81 to the Capital Beltway. The last 9.7 miles proved to be the most challenging.

Leland J. White, in an article about the battle over I-66, wrote:

The concept of an east-west highway through Arlington, Virginia, originated in 1938 when the county planner included the road in his “First Report to the Arlington County Planning Commission.”

As planning for I-66 began in the 1950s, the exact routing inside the Capital Beltway had to be decided:

The route through Arlington was similar to that proposed in 1938 by the county planner and later included in the 1941 Arlington Master Plan. In 1942 the Virginia General Assembly had authorized land acquisition along the abandoned Arlington and Fairfax Railroad right-of-way, to begin in 1946. Just a year before the Interstate Highway Act was signed [1956], because being along a highway route was considered desirable, both the Falls Church City Council and the Arlington County Board of Supervisors had asked the Virginia State Highway Commission to be included on the right-of-way for any proposed interstate highway across Northern Virginia.

As Virginia highway officials were considering the routing for I-66, they began to hear the “first rumblings against the highway” at a public hearing in Fairfax County on March 11, 1958. In these years, public hearings were an opportunity for the State to inform the public, not to gather information about potential adverse impacts or answer questions and concerns:

Two hundred people attended and were dismayed that the official had little definite information to give them. Many of those present expressed concern about the vagueness of the proposal, though most did not question the need for the road itself.

Opposition began to solidify later in the year when the Arlington County Board held a public hearing on potential routes:

More than 500 citizens turned out and, as in Fairfax County, their reaction was clear and negative. To repeated questions as to why any highway had to go through Arlington, County Highway Engineer Clifton G. Stoneburner could only reply, “Because if it must connect with the District’s Inner Loop, as the government says it must, then it has to come through Arlington some way.” County Board Chairman Ralph Kaul conceded after the meeting, “This put a new light on things – I don’t think any of us realized just how strong the opposition to this road was.”

The county appointed a Citizens Advisory Committee to analyze the issues.

When VDH held its only planned hearing in Arlington on October 29, 1958, over 800 people appeared to protest each proposed route:

Most of the speakers were concerned about the impact of the road on the property tax base and on the neighborhoods themselves. And, as Joseph Soultener, a member of the Mount Daniel Protective Association, admitted, “One group doesn’t like the route in their backyards and shifts it to another group; the other group shifts the monster back again.”

The Citizens Advisory Committee reported in November that citizens felt powerless because “binding decisions on these matters have been reached by the State of Virginia, the Federal Government, and the Government of the District of Columbia. There will be a Highway 66, and it will traverse Arlington County.” Even if it was a bad idea, “there is no way of securing the reversal of these decisions.” The only question was where it would be located.

The county, recognizing that the committee was right in saying the only question involved location, approved the Fairfax-Bluemont route for I-66 in November:

This road would go through Falls Church and Arlington along the abandoned [Arlington and Fairfax Railroad] rail line and along the right-of-way of the Washington and Old Dominion Railroad, soon also to be abandoned.

The VDH approved the route for an eight-lane freeway in November and BPR accepted it in June 1959. On June 6, 1959, the *Post* declared that BPR’s approval “marked a final breakthrough on Metropolitan Washington’s biggest highway controversy.” As White pointed out, this statement “would later prove to be a monumental case of premature judgment.”

While VDH officials dealt with complicated right-of-way issues involving the abandoned rail lines, citizen opposition continued to mount in the early 1960s. Arlington County officials tried to work with VDH to alter the precise routing to save homes, but they did not believe they had a reasonable chance of stopping construction altogether.

Other factors delayed construction. One factor was the plan to construct one of the planned rail rapid transit lines in the I-66 median:

When delays resulted over the construction financing for Metro, VDH could not complete final engineering plans and design work until it knew whether it would indeed have to accommodate Metro in the median.

Another complication was that trucks were banned from the Theodore Roosevelt Bridge over the Potomac River. Trucks would have to use the Three Sisters Bridge on I-266:

The I-266 spur line and the Three Sisters Bridge, however, ran into opposition on almost every front. Arlington residents and the National Park Service protested the virtual destruction of Spout Run Park, and anti-highway activists in the District attacked the proposal for the bridge, which was supposed to connect to highways they were trying to prevent The battle over the Three Sisters Bridge resulted in continued design delays for I-66, in part because the number of highway lanes depended ultimately on the fate of the bridge.

By 1970, White explained, “the VDH had acquired most of the right-of-way and was ready to proceed with the final design and construction of I-66 inside the Beltway.” However, NEPA and other environmental laws posed new challenges that VDH officials could not have anticipated:

By 1970 segments of Interstate 66 had been built through western Fairfax County, but the highway came to a dead end at the Capital Beltway. VDH put I-66 on a fast track, hoping to open the road inside the Beltway by late 1973 or early 1974. The state was required to hold one more hearing to allow Arlington residents to comment on the design of the road.

About 700 people filled the Washington and Lee High School auditorium on September 29, 1970:

[They] reacted to officials’ statements with what a reporter from the *Fairfax Sentinel* called “a great roar of righteous indignation.”

James and Emilia Govan were among those in attendance. They lived three blocks from the planned route and had hoped for specifics, such as the location of interchanges and noise walls. But as Jim Govan later told White:

“There was no information available for the public to look at There were no politicians or elected officials present. The highway officials were condescending and cut citizens off with curt responses. People couldn’t get answers to basic questions. People were very upset when the hearing was over and simply started exchanging phone numbers.” When VDH officials disclosed for the first time that I-66 would be 14 lanes wide in Rosslyn, “the whole thing crystallized for us,” Emilia Govan said.

They used those phone numbers to form the Arlington Coalition on Transportation (ACT) in October 1970 with about 20 other opponents. ACT, which would grow to a peak of about 1,500 members, petitioned the county for another hearing and joined other activists who had planned a walk along the right-of-way. “Much of the corridor was wooded, including the overgrown rail line, which had been abandoned for years.”

Under pressure from county officials, VDH held a second design public hearing on December 7-9, 1970:

The design hearings . . . were even more volatile than the hearing in September. *The Washington Post* reported, “The overwhelming sentiment was against building the road The highway proponents were booed and jeered by some persons at the hearing, and at one point . . . two men were on the verge of a fist fight over their differing views.” [White, Leland J., “Dividing Highway: Citizen Activism and Interstate 66 in Arlington, Virginia,” *Washington History*, Spring/Summer 2001, pages 53-67]

As would happen a few days later in the hearing on design of the Three Sisters Bridge, most of 27 speakers ignored the design of I-66 and “expressed sentiments on why the road should not be built through Arlington,” as the *Star* put it. The approximately 600 residents of Arlington who attended the hearing “booed and heckled representatives of nearby counties and businessmen as they spoke in favor of Interstate Route 66.” When opponents spoke, “the spectators clapped

approvingly.” [Brockett, Diane, “600 at Hearing in Arlington Boo as Officials Back I-66,” *The Evening Star*, December 8, 1970]

The December hearings prompted two letters to the editor that the *Star* published on January 8. Herman W. Jensen of Arlington felt that “the citizens of Arlington County owe the Virginia Department of Highways an apology for the immature and discourteous actions of a great many persons in attendance.” In view of the “juvenile behavior on the part of so-called adults,” he understood why “many of our young people have so little faith in us.”

He wondered how many of those in attendance woke up the next day and drove to work – and how many used public transportation. “Good public transportation can go a long way toward negating the need for I-66, Four Mile Run Expressway, Bluemont Expressway, Monticello Freeway, the Potomac Freeway and the South 15th Street Expressway.”

Mrs. T. L. Cain wrote that she had lived her entire life in Arlington County and was “proud for the strides Arlington County has made in such a competitive race.” In view of the “growing expansion,” State and local officials were “working feverishly (sometimes with limited funds) to accomplish nearly an impossible goal – that of providing adequate accessible roadways and freeways so the resident can arrive at his place of business or at his home without weaving in and around our quiet residential streets.”

She urged I-66 opponents to “take a long hard look at their streets and their routes to their jobs or destinations.” Do they wait for a crowded bus while breathing in a “good gulp of pollution caused by congestion”? She wrote, “Free moving vehicles expel less pollution than those idling along in congestion”:

If we opposed every medium of progress that is aimed at promoting our comfort and safety, some would still be riding horses! We live in the age of speed and, like it or not, we must have highways to accommodate our transportation needs. [“I-66 Hearings,” Letters to the Editor, *The Evening Star*, January 8, 1971]

Commissioner Fugate met with Governor Linwood Holton in mid January to say that abandoning or relocating I-66 through the county was “entirely out of the question.” In a letter, Fugate wrote that “the evidence is overwhelming that I-66 in Arlington County must be built if that area’s transportation needs are to be met in the years immediately ahead.” He added that “every traffic study made by this department, by the Arlington County government, by WMATA, and by the National Capital Regional Transportation Board has supported the need for I-66.”

Virginia has spent \$20 million acquiring right-of-way for the route and had cleared much of the land. He continued “there is a splendid opportunity here to develop I-66 as in many respects the model of urban highway construction, and we do not take this opportunity lightly.” He added:

The commission is aware, of course, of the obvious necessity for careful planning, and has employed probably the finest environmental consultant in the United States to help with design and construction of the freeway. [“Highway Commissioner Bars Interstate 66 Shift,” *The Evening Star*, January 18, 1971]

On January 29, the *Star's* Letters to the Editor column included one from Emilia Govan taking exception to Mrs. Cain's letter. "While I share many of Mrs. Cain's concerns about the quality of life in our community, I believe that construction of I-66 will have an irrevocably destructive effect on the entire metropolitan area." She disputed the notion that I-66 would take traffic off local streets:

By closing off many existing roads, I-66 will bring about intolerable congestion on the streets that will serve as crossover points and on streets which provide access to or from I-66 interchange ramps. Many of the proposed cross-over streets are themselves residential. Vehicles must weave their way through residential neighborhoods to reach cross-over points and interchanges. Also, much of the automobile and bus traffic seeking access to Metro stations in the Wilson-Fairfax corridor will have to cope with congested I-66 crossover streets, thus making Metro ridership an inconvenient proposition at best, and leading to reduced ridership and increased fares.

For three reasons, she considered erroneous the idea that traffic on superhighways produced less air pollution than slower traffic on local arteries. First, during peak hours, traffic on superhighways "will make necessary continuous lane-shifting and lead to inevitable back-up as drivers attempt to get on and off the short, narrow ramps." Second, an environmental consultant's report ACT had commissioned and presented at the design hearing "demonstrated that even assuming free-flowing traffic at 50 miles per hour with vehicles equipped with 1974 pollution control devices, the predicted carbon monoxide levels would be twice as high as recommended HEW [U.S. Department of Health, Education, and Welfare] standards and would constitute a potential threat to the community health." Third, the House Subcommittee on Roads had received testimony "that automobiles traveling at high speeds emit more nitrogen oxides and lead."

Govan concluded:

We have learned from the experience of the 1960s that more roads generate more automobile traffic. Building more roads has not solved transportation problems but aggravated them. A highway such as proposed I-66 will merely worsen the transportation crisis now faced by the Washington metropolitan area. In addition, I-66 will be an environmental disaster for the schools and neighborhoods through which it passes, as well as for the community at large. Is this progress?

Real progress can be achieved only by giving top priority to immediate development of mass transportation modes that move people—not automobiles—and that are protective—not destructive—of the environment. [Govan, Emilia, "Rebuts on I-66," Letters to the Editor, *The Evening Star*, January 29, 1971]

(The catalytic converter, which greatly reduced motor vehicle emissions, would not become standard on new vehicles until the mid-1970s, and was not required on older vehicles.)

The expert that Commissioner Fugate had mentioned in his letter to Governor Holton was John O. Simonds of the Pittsburgh firm of Environmental Planning and Design. Described in the *Post*

as an acquaintance of Fugate's, Simonds agreed to a "cost plus" contract with an "upper limit" of \$275,000 to study the route. Fugate said, "We needed the best expert in the nation and we needed most of his time. This is fairly new, and you get what you pay for."

The *Post* reported that the contract, which was "unprecedented," reflected the cost of environmental designs the public was now demanding "and the increasing responsiveness of officials and bureaucracies to those demands":

So far, there have been nothing unique about Simonds' suggested "environmental" improvements; his ideas closely parallel suggestions made at no cost by citizen opponents of the highway at a series of tumultuous public hearings recently.

Both his suggestions and those made by the citizens include acoustical baffles to reduce traffic din; earthen "berms," or dikes, to mask the sights and sounds of traffic, and trees and fences to soften the harsh geometry of concrete and macadam.

Simonds himself says his chief concern is noise abatement. There presently is little to be done in the design of highways that will abate the high amounts of pollutants that will pour into the air from vehicles using the highway.

He considered I-66 inside the Capital Beltway as "unique" because it involved "helping with the planning of a dual use right-of-way before the final drawings are done." This new public interest in environmental planning was only going to grow around the country. "I see nothing but more interest in the environment and growing feeling that if we don't do it now, when we're building, we'll never be able to recoup." He described the recent public hearings as "bracing," full of "thunder and lightning," but also producing "many good and valuable ideas."

As for the cost of the contract, VDT spokesman Albert W. Coates said, "This is the first time we have tried anything like this, and no state highway department in the country has done this before." In negotiating the contract, VDT and Simonds were guessing at the costs. As for hiring Simonds without advertising for bids, Fugate dismissed the bidding process for consultants:

It would be like asking doctors to bid on taking out an appendix. This is professional work, and ethics don't allow doctors, lawyers or engineers to bid on their services. [Wilkinson, Tom, "Ecological Planner To Work on I-66," *The Washington Post and Times Herald*, January 31, 1971]

(John O. Simonds was a nationally known landscape architect based in Pittsburgh. In addition, he was an author, teacher, and lecturer. From 1966 to 1968, he served on FHWA's Board of Urban Advisors, established in 1966 by Administrator Whitton to prepare a set of guidelines for the planning and design of urban expressways. In 1968, FHWA published the board's recommendations as *The Freeway in the City: Principles of Planning and Design*. Simonds edited the publication. Although FHWA published the report, it was entirely the board's independent work.

(The report, released on May 24, 1968, contained major recommendations that should have the "highest priority for action." As summarized at the time, they were:

- Expand application of techniques of Systems Analysis and Operations Research to problems of planning, locating and designing urban freeways.
- Adopt Systems Concept of an interdisciplinary team approach to urban freeway planning on every level – Federal, State, regional and local. (This design team approach already is underway in Baltimore, Maryland, and Chicago Illinois, and under consideration by several other metropolitan areas.)
- Appoint an independent review board of qualified professionals to serve the Federal Highway Administrator, the Director of Public Roads, the State Highway Engineer, or the City Public Works Chief in an advisory capacity.
- Encourage and aid formal education in urban transportation and highway planning and design.
- Establish a system of regional Urban Design Institutes for advanced research in all related disciplines, sponsored jointly by the Department of Housing and Urban Development and the Department of Transportation.
- Encourage formulation in each state of a total environmental planning commission to represent the legislature, the governor, and those agencies primarily responsible for physical planning in the state.
- Coordinate freeway considerations with the comprehensive planning of every affected community, city and region. Throughout the planning process, information should be made available to government agencies, civic and other organizations to develop public understanding and support. “It has been well said that every freeway is a political statement.”
- Promote the integration of freeways with all other elements of the urban transportation system. These include arterial streets, vehicular parking areas, other transit systems, trains, subways, etc.
- Stimulate more research on better ways of moving people and goods.
- Investigate possibility of giving highway departments authority to condemn and purchase lands adjacent to proposed freeways or interchanges. The states or cities could then sell or lease the excess property as “improved land.” The income benefits resulting would help defray, or perhaps even cover, the cost of the new highway development, offering relief to taxpayers.
- Encourage the multiple utilization of urban rights-of-way. This concept sees the highway as but one occupant of the right-of-way. The use of space beside, below and above the freeway should be planned and designed along with the highway, itself. Its planning, if related to urban renewal, can help restructure the city in a more efficient and orderly way.
- Encourage State and the City Highway Departments to purchase and develop freeway-recreation corridors. Freeways should not only provide access to, but should be considered in themselves as major recreation facilities. These multiple-use corridors would provide, besides the roadway, such desirable features as fishing and boating lakes and streams, golf courses, game courts, riding trails, wildlife sanctuaries and conservation lands.
- Develop and promote the passage by states and Federal Government of advanced highway-related enabling legislation. It suggests creation of a legislative task force to analyze current laws, needs and possibilities.

- Encourage a high level of visual quality in every proposed freeway. Urban freeways should contribute to the beauty of regions through which they pass, from the standpoint of both the users and viewers of the facility. The highway beautification program of the Federal Highway Administration is a very good beginning, the report adds.)

In view of citizen concerns, the Arlington County Board asked Commissioner Fugate for a look at the design plans. He replied by letter that he would show the board members the plans, but not in a public forum. He also indicated that he would not agree to an early board request that he stop acquiring right-of-way for I-66 until the design plans are completed.

Commonwealth Attorney William J. Hassan referred to the proposal as constituting a “backroom conference,” which the board rejected angrily. However, Hassan explained that Fugate was correct about acquisition because State law did not allow condemnation proceedings to be delayed once initiated. “That is a very fair answer on that part.”

Chairman Fisher said, “His response is, from my point of view, unsatisfactory.” The board authorized Fisher to send a “blunt letter” to Fugate demanding that a three-dimensional model of selected portions of the proposed design, as well as drawings, be made available in a “public forum.” [“Arlington Board Rejects Secret Meeting on I-66,” *The Sunday Star*, February 14, 1971; “‘Back-Room’ Talks on I-66 Rejected,” *The Washington Post and Times Herald*, February 14, 1971].

ACT visited Governor Holton on February 16 to ask him to halt development. According to sources, he told ACT that the project was too far advanced to be changed now.

On February 18, the Virginia Highway Commission approved major design features for the I-66 segment from Washington Boulevard to Lynn Street in Rosslyn. The route mainly followed the abandoned Washington and Old Dominion rail line. Approved design features included four lanes in each direction between Glebe Road and Lee Highway as well as three interchanges. The commission asked State highway officials to continue refining the design in cooperation with Simonds. He expected to complete his recommendations in a couple of months. Following FHWA approval, the construction would be ready in the fall.

The State planned to hold a public hearing for the remaining 6 miles of I-66 in Arlington County between Glebe Road and the Capital Beltway. The hearing would be scheduled for late 1971 or early 1972.

In addition, the commission approved the major design features of I-266 along Spout Run Parkway to the Three Sisters Bridge. Fugate explained that the project would convert Spout Run Parkway from “a park type highway to an interstate type highway.” He added that land taken for the spur would be replaced, acre-by-acre, by parkland to be acquired nearby. [Kelly, Brian, “State Panel Okays I-66 Design, Asks Environmental Aid,” *The Evening Star*, February 18, 1971; Wilkinson, Tom, “I-66 Work In Virginia Approved,” *The Washington Post and Times Herald*, February 19, 1971]

ACT, Arlingtonians for Preservation of the Potomac Palisades, and several property owners went to U.S. District Court in Alexandria on February 19 to file a suit seeking to halt acquisition of right-of-way for I-66 until VDH held location hearings. Named in the suit were Commissioner Fugate, Secretary Volpe, and FHWA's Virginia Division Engineer, Harold C. King. The suit also named Martha Sutton, Arlington's recorder of deeds, requesting that she be prohibited from recording sales of land for I-66 right-of-way.

According to the petitioners, VDH had not complied with Federal requirements for "timely public hearings on the need for and location of the highway." The last location hearing took place in 1958 and it concerned only the route of the highway, not its impacts. Further, VDH had not complied with NEPA. Significant social, economic, and environmental changes had taken place in recent years. Changes since then included population and employment shifts to the suburbs and approval of plans for Metro. The proposed Metro line in the corridor raised questions, not asked in 1958, about whether I-66 was needed. The suit claimed I-66 would "cleave" Arlington County in half, heightening racial and class differences between the halves.

Mrs. Govan told reporters, "The environmental factors weren't taken into account in 1958 and the public had not yet been given any evidence that the highway project will not harm the environment in 1971." [Brockett, Diane, "Arlington Coalition Sues for Hearings On Location of I-66, *The Sunday Star*, February 21, 1971; Edwards, Paul G., "Opposition Mounts Against I-66 in Arlington," *The Washington Post and Times Herald*, February 23, 1971]

The *Star's* Jack Kneece pointed out that the Three Sisters Bridge was a key factor in the lawsuit. The approved design "provides for a link at the Three Sisters in the vicinity of 24th Street in Arlington":

From near this point, it picks up the Old Dominion right of way and follows it to near an intersection with Fairfax Drive. The rail line loops to the south of the highway route at that point. The I-66 right of way picks it up again at Patrick Henry Drive then leaves it again, at Lee Highway, looping northward to cross the Old Dominion again near the completed portion of I-66 at the Beltway.

The lawsuit argued that because the route had been planned before the Three Sisters Bridge and the Metro line had become realities, the plans were based on data that might no longer be true. "Citizens have complained that the route was approved when there was a universal fixation among highway planners with freeways." Virginia Commissioner Fugate did not agree. He contended that VDH had followed all requirements and was ready to proceed. [Kneece, Jack, "Plans at 3 Sisters Spotlight I-66 Suit," *The Evening Star*, May 31, 1971]

The New Delegate

On December 7, 1871, the District of Columbia's first nonvoting delegate to Congress took office. Congress had reclassified the District as a territory, similar to the western territories that would eventually become States. As such, the District was entitled to a Governor appointed by the President, a legislative assembly, and a nonvoting Delegate to Congress to advocate for the city. General Norton Parker Chipman defeated the former slave Frederick Douglass for the

Republican Party's nomination and went on to win the position. According to John P. Richardson's book on public works boss Alexander Shepherd:

The citywide elections April 20 brought no surprises. Republican candidate and Shepherd ally Norton Chipman, a Union officer who had prosecuted Henry Wirz, commander of the notorious Andersonville Civil War prison camp, easily defeated his Democratic opponent, Richard Merrick, for District delegate to Congress. The elected House of Delegates contained fifteen Republicans, including two blacks, and seven Democrats. Three blacks were appointed by President Grant to the Legislative Council, including Frederick Douglass. [Richardson, John P., *Alexander Robey Shepherd: The Man Who Built the Nation's Capital*, Ohio University Press, 2016, page 94]

Speaker of the House James G. Blaine administered the oath of office. According to James Eisen:

The many bills Chipman introduced and the debates in which he joined have an eerily contemporary ring about them even today. They dealt with public transit (horse-car franchise), bridge and street construction, expansion of the Capitol grounds, court reorganization, regulation of interest rates and, most of all, schools and municipal finance

.....

Although entitled to speak on any pending House business, a browsing through the Congressional record of Chipman's 1½ terms indicates that he restricted himself to District matters.

At least once he was explicit in defining his role. The House was warmly debating an expansion of the Capitol grounds to form the central plaza of today, displacing private dwellings and a few saloons frequented, the discussion made clear, by some lawmakers themselves.

The pending measure was, Chipman said, a national bill. But, he told his colleagues, "You are holding the ax" over the affected property owners. "I am speaking now only locally and for the interest of those people most directly interested," he declared. "Either make this purchase now or say it will never be done." The purchase was made.

In 1874, Congress passed the legislation removing the city's territorial status, abolishing the Governor and legislature, and establishing the three-man board of commissioners that survived into the 1960s. President Grant approved the legislation on June 20, 1874 (P.L. 43-337):

Chipman did not fight it. Nor did he, on the record, attempt to preserve his own job. He only sought, however vainly, to make the new system of government more palatable to those it was to govern."

The bill made it through Congress in 2 days. President Grant's signature brought an end to the position of Delegate in 1875. [Eisen, Jack, "D.C. Delegate—100 Years Ago," *The Washington Post and Times Herald*, March 23, 1971]

One hundred years later, the city was going to vote on March 23, 1971, for its second nonvoting delegate. Candidates had many issues to debate, including transportation. For example, The Reverend Channing Phillips said he would promote policies to “get the American commuter to curtail use of his automobile by providing him with an attractive mass transit system – and a tax on all-day parkers in downtown Washington,” according to a position paper summarized in the *Post* on January 3:

In a position paper on transportation issued yesterday, Phillips said he would oppose construction of additional freeways and parking facilities, push for faster construction of the subway and urge that special lanes be allocated for buses. He said he would also work for government subsidies to reduce mass transit fares.

He wanted to shift air traffic from Washington National Airport to Dulles International Airport.

He anticipated that other candidates, such as former Councilman Yeldell, would have similar views on transportation, but it was actions that count. He criticized Yeldell because while he was chairman of the WMATA board of directors, the agency “had failed miserably to give any major contracts to black businesses or even to assure that blacks are employed in sufficient numbers on those contracts.” By comparison, he said, “the Housing Development Corporation of which I am president had a black contractor at Clifton Terrace, 15 of 20 black subcontractors, and 300 black workers.” He also criticized Yeldell for his vote in support of the Three Sisters Bridge.

Yeldell declined to make excuses for WMATA’s hiring and employment practices. As chairman, his focus was on bringing about changes. Further:

He has defended his vote for the Three Sisters Bridge, explaining that the congressional threat to withhold a \$105 million federal payment to the city made it a “responsible” decision. He said he is against new freeway “gateways” to Washington.

Reverend Phillips criticized former Councilman Fauntroy for being “virtually silent” against freeways since leaving the city council:

He repeated his statement that Fauntroy refused to join in a suit to block construction of the bridge.

Fauntroy issued a statement in reply asking, “Where was Channing Phillips?” when Fauntroy and other Council members were speaking out against further freeway construction in 1968, and before. Fauntroy said his “strong opposition” to freeways was a matter of record. [Boldt, David R., “Phillips Rips Foes on Issue Of Freeways,” *The Washington Post and Times Herald*, January 3, 1971]

On January 12, District residents voted in the primaries. They selected Reverend Fauntroy as the Democratic nominee and former Councilman Nevius as the Republican candidate. Julius Hobson would represent the D.C. Statehood Party in the election to be held on March 23.

As the *Star* introduced the results of the March 23 election:

The Rev. Walter E. Fauntroy, who based his campaign on a pledge to reawaken the spirit of Martin Luther King, has been elected overwhelmingly as the District's first congressional representative in nearly 100 years. Winning 58.5 percent of the vote in yesterday's election the 37-year-old moderate Democrat outscored his major opponent, Republican John A. Nevius, by better than two to one.

Julius Hobson, the D.C. Statehood party candidate, ran a weak third with less than 15 percent of the vote while other candidates mustered little more than 3 percent of the total. [Anders, Michael, "Fauntroy Wins 58.5% of Vote," *The Evening Star*, March 24, 1971]

On April 19, Speaker Albert administered the oath of office to Delegate Fauntroy in the well of the House, as Stephen Green described in the *Star*:

Among congressmen rushing up to Fauntroy on the House floor to shake his hand was Rep. John L. McMillan, D-S.C., chairman of the House District Committee.

Fauntroy said McMillan "invited me to come and see him this week."

Elected to the office on March 23, Fauntroy is automatically a member of the District Committee. Although he may not vote on the floor, he may vote in committee.

A packed gallery of some nearly 600 persons and about 70 congressmen present on the House floor gave Fauntroy a standing ovation that lasted for nearly a minute after he took the oath. Outside, by the East Front of the Capitol, additional hundreds of District residents watched as Albert and Fauntroy re-enacted the ceremony

On the steps, Fauntroy was flanked by a United States flag and a District flag. He was surrounded by family members, friends, including Mrs. Coretta King, widow of the late Dr. Martin Luther King, city officials, including Mayor Walter E. Washington, and members of Congress.

Fauntroy told the crowd he would continue to work for human dignity by attempting to abolish the office he now holds.

"I ask God's help and yours in . . . establishing full representation in the Congress and full self-government for our city which are God-given and constitutional rights of us all," he said. [Green, Stephen, "Fauntroy Sworn In, Gets an Invitation To Visit McMillan," *The Evening Star*, April 19, 1971]

Metro Funds

Secretary Volpe, in his COG speech on February 16, had said he was releasing \$68 million to WMATA "immediately." Since then, the department had never announced that the funds had actually been released. In late March, General Graham admitted that he had never been able to confirm the availability of the funds.

Further, Representative Broyhill remained concerned about the congressional threat to continue withholding the District's matching funds pending compliance with the 1968 and 1970 Acts. In March, he wrote to the White House about the harm that would occur if construction did not resume on the Three Sisters Bridge. After receiving what he characterized as a "thank you for your letter" reply, he wrote a sterner letter. "I warned them I would not put up with a brush-off either" because Congress was "dead earnest" about the Metro funding threat.

He also was concerned about the city's plan to build a model of the bridge to test it for safety. It was, he said, the latest reason for delaying construction. "I think the White House has been trying to use this deliberately as a test confrontation with the Congress on the powers of the executive branch versus the Congress."

Under Secretary of Transportation Beggs met with Representative Broyhill on March 30. Representative Broyhill made clear that he did not believe the Metro funds should be held hostage to construction of the Three Sisters Bridge, but said the majority of House members wanted the city to comply with their legislative wishes before releasing the Metro funds. He asked Beggs to tell FHWA to stop studying a single-span design for the bridge and to order construction of a conventional double-span bridge as a prelude to release of the District's matching share for Metro. Beggs replied that in studying the single-span design, FHWA was complying with Judge Sirica's ruling concerning design of the bridge.

After the meeting, Beggs confirmed that the department had made the funds available. However, the Metro funds would remain in a special account, not released in a lump sum to WMATA. "It is our view that the money is available to permit the authority to move ahead in a meaningful way in advertising for bids. The issue of what will happen if the [Natcher] Committee does not provide the matching funds is one that is long in the future and we're not crossing that bridge yet."

Told of the release, General Graham said, "We hope to start obligating the money promptly on Wednesday morning." However, this response resulted from a misunderstanding of what Beggs was saying. The funds were set aside in the special account until Chairman Natcher released the District's matching funds.

As WMATA officials were trying to figure out whether the funds were available, they received a letter from Secretary Volpe saying he had "approved the release" of the \$68 million, but that the funds could not be used until the matching funds were available. "Your program must, therefore, be structured in accordance with this restriction."

Jack Eisen summarized the consensus:

At first reading this provision appeared to support the interpretation that the money actually was not being made available.

However, Beggs and Jackson Graham, Metro general manager, said Volpe's action means the \$68 million can be used as the basis for inviting construction bids from contractors between now and June 30.

Graham said the Metro cannot invite bids unless it has the money on deposit, which was assured by Volpe. Beyond that, however, it cannot actually agree to pay the contractor [by awarding a contract] until all restrictions on spending the money are removed.

[Kneece, Jack, “White House Orders Talk in 3 Sisters Rift,” *The Evening Star*, March 30, 1971; Eisen, Jack, “U.S. Says \$68 Million Available for Metro,” *The Washington Post and Times Herald*, March 31, 1971; Green, Stephen, “U.S. Can’t Match Metro Funds Until D.C. Share is Released,” *The Evening Star*, March 31, 1971; Eisen, Jack, “Financing of Subway Clarified by Officials,” *The Washington Post and Times Herald*, April 1, 1971]

Three Sisters Bridge Design

On March 31, as part of the response to Judge Sirica’s August 1970 ruling, District highway officials submitted their recommendations to FHWA on design of the Three Sisters Bridge. Having considered the comments during the December hearings, the District’s highway agency recommended the design approved by the Commission of Fine Arts, a three-arch concrete bridge with the long arch across the river without a central support. The design, estimated to cost \$32.3 million, was not only safe but “a monument to man’s esthetic senses.” The 26-page report also rejected claims that the bridge would harm the environment, take parkland, worsen air pollution, spoil natural beauty, or adversely impact neighborhoods in the area:

[The bridge would provide] fast, safe and efficient transportation and relieve neighborhoods of unnecessary traffic while minimizing adverse environmental, sociological and economic effects on the city and the region.

District officials had considered alternatives, including a proposal by FHWA for a six-arch \$25 million steel structure, but rejected them. The city concluded that FHWA’s design “would be less attractive, take more parkland and cut back boating on the river.” The city also rejected proposals to reduce the number of lanes from six to four, build a tunnel instead of the bridge, and provide room for pedestrians and bicyclists.

If the project required parkland, the city would compensate by providing new land or making “needed improvements” to present parks. Noise impacts would be “negligible” because the nearest residence is 240 feet away on 44th Street, NW., although noise might be greater for people hiking the C&O Canal or boating on the Potomac. Traffic flowing smoothly across the new bridge would result in less pollution, not more. [Meyer, Eugene, “City Sends U.S. Agency New Design for Arched Three Sisters Bridge,” *The Washington Post and Times Herald*, April 1, 1971]

Jack Kneece, in the *Star*, explained that Administrator Turner now faced a “difficult decision” regarding the design, but “it’s a dilemma of his own making”:

During design hearings, Turner assured Judge John J. Sirica that every effort – including exhaustive tests on the scale model – would be made to assure the safety of an innovative, single-span design recommended by the Fine Arts Commission.

The pledge came back to haunt him when it was learned that there is probably enough data on hand to proceed with that design without testing the model.

Pressure was mounting on FHWA. District highway officials informed the department that the “design can be built now if the department so chooses – a move possibly to force the department’s hand.” Meanwhile, Representative Broyhill was accusing the Nixon Administration of stalling and using the scale model as an excuse:

The model, now being built by the Cement and Concrete Research Institute in Skokie, Ill., won’t be ready for testing until July. Testing, though, may be the wrong word. Eventually, the model will be crushed to death by huge hydraulic jacks, hopefully not breaking until the stress equivalent to a whole bridge full of tractor trailer trucks has been passed.

Engineers, aware that the design had been used successfully in other countries, considered the model unnecessary. Director Airis agreed, as did Fred H. Sterbenz, project engineer for the bridge on behalf of Howard, Needles, Tammen and Bergendoff, and FHWA’s District Assistant Division Engineer, John T. Isaacson:

Sterbenz, however, said perhaps it was wise that a model is being built “in view of all the controversy.”

Turner, Kneece wrote, had recently asked his Chief Counsel, David E. Wells, for an opinion. He replied:

It is not believed that we could approve the present Fine Arts approved structure on the basis of mathematical calculation alone.

You indicated in the court that you are satisfied from those calculations that the bridge could be built and would be safe. However, you further indicated that to be doubly sure and completely satisfied you felt a model should be constructed for testing.

The court indicates in its opinion that, with the novel structure, it believed from testimony that a model had to be constructed and subjected to tests before the standards could be met.

According to Isaacson, the District could begin some work now, regardless of the final design. “Meanwhile,” Kneece concluded, “the seagulls are finding the rusty steel piers of the structure a good roosting place.” [Kneece, Jack, “How Much Crushing Does the Three Sisters Bridge Need?” *The Metro Notebook*, The Evening Star, April 3, 1971]

Fighting for Metro

On April 1, Airis appeared before Chairman Inouye and the District Subcommittee of the Committee on Appropriations. Using maps, Airis summarized the status of freeway development.

As defined by the 1968 ICE, the District's Interstate System was 29.5 miles long. Several segments totaling 10.6 miles were in use:

- Theodore Roosevelt Bridge (I-66) and a section of the Potomac River Freeway (I-66 including its connecting E Street Expressway;
- 14th Street bridges (I-95) except the new bridge;
- Southwest Freeway (I-95) including its northbound 12th Street Expressway and the soon-to-be-opened 9th Street Expressway;
- the Southeast Freeway (I-695) to the completed 11th Street bridges over the Anacostia River; and
- Anacostia Freeway (I-295).

“All of these elements,” Airis told the subcommittee, “are in heavy usage,” with the 14th Street Bridges carrying the highest volumes (144,000 average daily traffic).

Construction was underway on a further 2.6 miles of Interstate freeway:

- Center Leg (I-95) to New York Avenue;
- Southeast Freeway (I-695) between the 11th Street Bridges and Barney Circle; and
- Three Sisters Bridge (I-266).

Discussing the Center Leg, Airis pointed out that “this is the leg you see under construction right out here in front of the Nation's Capitol:

It is already covered over and it is indiscernible now to a large extent from the Capitol area, as it is underground – although the Department has yet to finalize the air-right development details with the Redevelopment Land Agency between H and K Streets; the remainder is scheduled for opening in late 1972.

The Southeast Freeway was scheduled for completion to Barney Circle in November 1972. Of course, construction of the Three Sisters Bridge was under injunction. Noting that the District had sent its design engineering report to FHWA, he emphasized that it was “an essential link between the center city and the Dulles Airport and I-66 to the west.”

As for the remainder of the Interstate network, not yet under construction, he summarized:

Technically, the Potomac River Freeway along the Georgetown waterfront (I-266), and the East Leg of the Inner Loop up to Bladensburg (I-295), are in the design stage, but work is slower pending further development and no construction work has started.

The remainder of the system, that is, the North Leg of the Inner Loop, the Northeast-North Central I-70S and I-95 connections, and the extreme upper end of the East Leg require additional study as called for in the 1970 Federal-Aid Highway Act.

Still using maps, he explained the main differences between the Interstate plan and the Major Thoroughfare Plan that the city council had adopted in February 1968:

You will note the main differences, sir, are in the north central area. The Thoroughfare Plan that was recommended by the Council was to have I-95 go out over a New York Avenue alignment and make some type of connection with the Baltimore-Washington Parkway and then via the beltway, to I-95 to the north, eliminating the North Central Freeway. This is the discrepancy that the 1970 Federal Aid Act hopes to resolve.

The Thoroughfare Plan contemplates a 24½-mile system versus the 29 miles [planned for the Interstate System].

Before Airis could continue, Chairman Inouye said that when he received his new assignment, the first call he had received from the District concerned Metro. “And I must confess, that at that time I had no idea what the Metro was.” He asked Airis to “enlighten us as to what is involved in the so-called struggle that includes the Three Sisters Bridge, the highway builders, and the Metro.” Airis responded, “that is quite a large order,” but Chairman Inouye said, “Please proceed.”

Airis provided a lengthy discussion of traffic generators and volumes and steps to relieve congestion, such as imposition of staggered work hours to spread peak periods. In response to the chairman’s specific question, he said, “There is no conflict between subways and freeways”:

The two need to go together . . . They complement each other; they do not conflict. They do not compete with each other, only to a very limited degree because they are serving different purposes. As good as the subway is, as good as the bus transportation is, it will not haul one crate of oranges, not one. It will not make one service call where the man has to carry the beer or carry tools, or doctors’ kits. Those trips are made in rubber-tired vehicles, those and the host of other things that you cannot take care of on mass transportation. That is, if we are going to keep our civilization at its present level, and the well-being of our citizens at the present level. [District of Columbia Appropriations for Fiscal Year 1972, Hearings before a Subcommittee of the Committee on Appropriations, United States Senate, 91st Congress, 1st Session, pages 780-787]

He did not discuss the impasse Chairman Natcher had created by withholding subway funds until the District complied with the requirements of Federal law.

On April 7, President Nixon released a special message to Congress about the District of Columbia. It was a wide-ranging look at city issues, including home rule. He fully supported Reorganization Plan No. 3 of 1967, which replaced the commissioner system dating to 1874 with a mayor-city council form of government. However, one of his primary goals for the country was “to place local functions under local control, and to equip local governments with the authority and the resources they need in order to serve their communities well”:

To this end I solicit the cooperation of the Congress in transferring many of the routine municipal function it now must exercise itself, into the hands of the District government. Several such functions whose transfer is requested in the District’s 1971 legislative program include the setting of liquor license fees, the execution of long term lease agreements, and the issuance of no cost driver’s permits for use by District police officers

on duty. It is clearly time to stop tying the city's hands, and squandering the Congress' valuable time, by holding on Capitol Hill minor powers that belong in the District Building.

He looked forward to the commendation of the Commission on the Organization of the Government of the District of Columbia, known as the Nelsen Commission after Representative Ancher Nelsen although formerly called the Little Hoover Commission. The recommendations were due in March 1972. He planned to submit legislation extending the commission's life so it can provide its views "on the subject of expanded self-government for the District of Columbia."

City residents had now voted in two presidential elections and election of a nonvoting member of the House of Representatives. "I was proud to personally congratulate the Reverend Walter Fauntroy immediately after his election to this important post two weeks ago." It was, however, only an interim step because the city was entitled to a representative who could vote in the House. "I reaffirm my strong support for a Constitutional amendment granting to the District at least one full voting representative in the House of Representatives, plus such additional representation in one or both houses as the Congress may approve."

Among other issues, he discussed Metro funding and preparations for the Bicentennial. He said that when Metro began operations in 1974, "it will be the Nation's most modern mass transit system" and "should do much to unify the metropolitan Washington community." It would reduce congestion and pollution while stimulating the area's economy:

I am confident that disagreements over implementation of the 1968 and 1970 Highway Acts – now tying up needed METRO funds – can be resolved, and I have urged all of the parties involved to give priority to meeting these legislative obligations.

He also proposed that the Federal Government remove "another major obstacle now confronting METRO" by guaranteeing WMATA's revenue bonds to expedite their sale. The guarantee would allow WMATA to sell its planned bonds "so that METRO construction can go forward at once." The bonds would be taxable as a condition of the guarantee, allowing the Federal Government "to cover 25 percent of the Authority's anticipated interest costs on the bonds, enabling the issuance of \$300 million in additional bonds." In all, WMATA would be able to "close two-thirds of its \$450 million revenue gap, in keeping with the two-thirds Federal and one-third local cost sharing arrangement that has prevailed for METRO funding in general."

As the Federal Government and the District of Columbia prepared for visitors during the Bicentennial in 1976, President Nixon thought that Georgetown, "the District of Columbia's living link to the colonial and Revolutionary eras" merited special attention. Unless steps were taken now "on an overall development and preservation plan for the Georgetown waterfront area," this resource would be lost "by default." He added, "New roads and commercial development threaten to change the waterfront forever, piecemeal." He had asked the District, NCPC, and the Departments of HUD, the Interior, and Transportation "to join with private citizens and move ahead at once in development of an overall plan for the Georgetown waterfront." The goal was to preserve historic buildings, increase parklands, save open vistas of

the river and Roosevelt Island, and “provide for the harmonious development of public, commercial, and residential facilities.”

In putting the full faith and credit of the Federal Government behind \$1.2 billion in WMATA construction revenue bonds, President Nixon overruled Secretary Volpe and Chairman Hahn who favored an areawide payroll tax. Briefing reporters at the White House, Secretary Volpe said, “there are many different types of plans” in considering the financing issue, including the payroll tax, reducing the system, and backing the bonds. The President’s backing for the bonds “was the most prudent way” to “bring success” to the construction bonds and Metro.

He did not suggest a way out of the freeway-subway impasse, but said he had talked to Chairman Natcher. “Once we are able to lay all the facts before Congress, I’m very hopeful that they will be convinced that we mean business and release the money.”

WMATA officials were reportedly “delighted” by the President’s announcement. The three jurisdictions subject to the areawide compact would have to approve the change in financing plans.

Chairman McMillan of the House District Committee expected prompt action because the bond guarantee was “the only way we have to get revenue” for Metro construction. Another promising sign was that Chairman Natcher’s subcommittee would not have a direct role in providing the guarantee.

Although neither the President nor Secretary Volpe suggested a way around Chairman Natcher, Secretary Volpe did tell key Republican members of Congress on April 6 that, as the *Star* put it, he “may ask the U.S. District Court here to authorize a resumption of Three Sisters Bridge construction in an effort to convince Natcher to let go of the subway money”:

Volpe would ask the court to permit construction of two bridge support piers in the Potomac River while a model of a controversial single-span design is built and tested. The testing will not be completed until early July, Volpe told the congressmen.

[Prince, Richard E., “D.C. Plan Pushed By Nixon,” *The Washington Post and Times Herald*, April 8, 1971; Angle, Martha, and Gilken, Stephen, “Home-Rule Study Proposal Hits a Snag,” *The Evening Star*, April 8, 1971; Boldt, David R., “Metro Bond Backing is Seen Likely,” *The Washington Post and Times Herald*, April 10, 1971]

(Representative Nelsen’s Little Hoover Commission report was delayed. The commission’s reports, beginning in May 1972, covered topics such as education; city youth programs; waste due to failure to centralize purchasing, data processing, and paperwork management; public colleges; underfunding the retirement funds for teachers, fire fighters, and police; and the city’s authority to set taxes. The commission also recommended eliminating the presidentially appointed Deputy Mayor, to be replaced by an assistant appointed by the mayor. Based on newspaper coverage, the commission did not address highway development or home rule.)

Chairman Natcher Makes His Point

On April 20, Chairman Natcher assembled his subcommittee for its first meeting of the 92nd

Congress. Mayor Washington, and Comer S. Coppie, the District's budget officer, were at the witness stand along with General Graham, Schuyler Lowe, and Roy Dodge representing WMATA, to discuss the second supplemental appropriation act, 1971. The supplemental was to cover several District funding categories, including \$34,178,000 for the city's share of Metro construction costs.

Because the subcommittee included several new members, Chairman Natcher said that before questioning of the witnesses began, "I have a statement I would like to make regarding the current situation as far as the Highway-subway [sic] impasse is concerned." The statement occupied 38 pages of the hearing record, with extensive reproduction of newspaper articles and other documents.

It covered the history of the highway program, emphasizing that local officials, not Congress, had chosen the segments of the Interstate System subject to BPR approval. He listed the 13 freeway segments BPR had approved in the September 1955 Yellow Book (North Central Freeway, Palisades Parkway, Three Sisters Bridge, 14th Street Bridge, Potomac River Freeway, South Leg, North Leg (West), North Leg (Central), Northeast-North-Central Freeway, North Leg (East), East Leg, and Intermediate Loop). "Since the adoption of these projects there have been 82 studies made, at a cost of over \$20 million."

He covered the activities that resulted in Section 23 of the Federal-Aid Highway Act of 1968, including the city's failure to use all the Interstate construction funds made available to it each year. He described how Congress had released Metro matching funds in 1966 after NCPC approved the freeway program, only to have NCPC reverse course after the funds became available. A lawsuit was filed in February 1966 to block the freeways. Congress responded with Section 23:

The District of Columbia has not been in compliance with the 1968 Highway Act at any time since passage of the act. From August 1968, until August 1969, the District government's position was simply outright refusal to comply with the act. If the District officials had listened to President Nixon and carried out the advice given to them by the President we would have solved this impasse over freeways and rapid transit many months ago.

He introduced President Nixon's letter of August 12, 1969, along with editorials and articles regarding the issues.

In September 1969, the Appropriations Committee recommended release of the District matching funds for Metro. "Every assurance had been made that both rapid rail transit and the freeway systems would go underway and construction would be completed on both systems." The city awarded a \$1 million contract to construct the piers for the Three Sisters Bridge. However, shortly after construction began, the U.S. District Court ordered a halt to construction.

When, as a result, Congress refused to release \$34,178,000 to the District for Metro, Secretary Volpe loaned \$57 million to WMATA. He pledged another \$68 million in February 1971. This time, the lack of matching funds restricted the use of the funding.

He referred to Representative Broyhill's letter to the White House "concerning the stalling tactics of the District officials" on the bridge":

It developed that in order to continue stalling the construction of the bridge an order was issue directing that an 81-foot model of the proposed bridge be constructed.

Chairman Natcher summarized the history of Metro legislation, starting with the bobtail plan for a 25-mile rapid rail system that would cost \$431 million, with the funds coming from the Federal Government (\$100 million), the District (\$50 million), and revenue bonds. Even before construction began on the 25-mile system, Congress approved a 98-mile system in 1969 based on an estimated cost of \$2.5 billion.

He pointed out his subcommittee's doubts about that cost estimate or that revenue bonds could be retired from fares collected. "The rapid rail transit systems in this country have never been able to retire bonds out of the fare box." Finally in November 1970, WMATA admitted that the 98-mile system could not be built for \$2.5 billion. When he suggested that the cost was more likely to be \$4 billion, WMATA officials held to their own lower estimate.

Despite their assurances, they found that Chairman Natcher had been right about the revenue bonds:

Several months ago the officials of the Washington Metropolitan Area Transit Authority announced that the bonds could not be sold due to the fact that the bankers and brokers in this country would not buy these bonds unless some guarantee was given that the bonds would be retired when they became due. The bankers and the brokers in this country know that bonds such as the rapid rail transit system bonds cannot be retired out of the fare box; therefore, a proposal is now underway to reauthorize the rapid rail transit system providing for additional costs for the 98-mile system and further providing for a guarantee by the Federal Government of the bonds to be issued. Since the overall cost of the 98-mile system exceeds the original authorization, the rapid rail transit system must now be reauthorized and the question of the additional cost of the system and the guarantee of the bonds by the Federal Government must be approved by the Congress.

He pointed out that for FY 1971, the city had requested an appropriation of \$3,495,000 for street improvements and extensions with a total budget of \$12,149,000 for capital outlays by the Department of Highways and Traffic. Because the overall city budget was out of balance for the sixth straight year, the committee "could not appropriate the \$3,495,000 requested for street improvements and extensions due to the fact that there was no available money for this purpose":

[It] was naturally assumed that when the supplemental appropriation bill for fiscal year 1971 was sent to the President by the District officials and then to Congress this bill would contain adequate funds for maintaining and repairing the streets in our Nation's

Capital. Not a dollar was requested for this purpose. Here again we see the District officials not only making every effort to stall the freeway system from going under construction but at the same time refusing to make recommendations for funds for maintaining and repairing the streets in our Nation's Capital

When it developed that no request would be made for maintaining and repairing the streets, our committee made an inquiry concerning this matter and we were advised by the District officials that it might be possible to secure rebates from the Department of Transportation on the Federal highway system money which could be used to maintain and repair the streets in our Nation's Capital.

(No such "rebates" were possible under the Federal-aid highway program. Federal law prohibited the use of Federal-aid highway funds for maintenance of Federal-aid or other roads.)

He did not know if Congress would authorize assurances for the bonds. "With all of our problems in this country, concerning housing, urban renewal, education, health, pollution and the many other problems that we have existing throughout the 50 States, the fact that we now confront with this impasse is right serious:

We have gone along with you and not a person in this room can say that this subcommittee has not carried out every commitment it has made.

The subcommittee had released the matching funds in 1966 only to have NCPC and the courts reverse course. The subcommittee had again released the funds in 1969:

We met with the President. He carried out every commitment he made If they had listened to President Nixon, we would not be in this impasse today, we would not be sitting here discussing it We have the impasse now as far as freeways are concerned and rapid rail transit.

He referred to the most recent court actions and the November 1970 design hearing for the bridge:

Nothing was done about it, and nothing has been done about it up to this time. They are talking in terms of an 81-foot model that, according to my information, was broken by the company with the contract to construct it. More delay and now downtown they say it will be several more months before they can proceed.

We have inquired as to when the bridge and freeway system would start under construction again so we can appropriate the money for rapid rail transit and for our freeway system? We have \$200 million for our freeway system. When are you going to solve this impasse?

Assuring the new members that "we have carried out every commitment," he continued:

General Graham, you know that is true. Why does this impasse exist and why do they not do something about it? The law of 1968 is the law and it must be complied with. The law of 1970 provided for the studies and it must be complied with.

He emphasized that the Appropriations Committee favored a balanced transportation system. “We are for rapid rail transit, we are for the freeway system, and we are for the bus system which will tie in with the two systems.” He concluded his presentation by saying, “I want you to know that we on this committee are for both systems and that is our attitude at this time.” [Second Supplemental Appropriation Bill, 1971, Hearings before the Subcommittees of the Committee on Appropriations, U.S. House of Representatives, 92d Congress, 1st Session, 1971, pages 969-1008]

He then turned to Commissioner Washington, as he would be called during the hearing, to present his statement. He was hesitant to comment in detail on Chairman Natcher’s statement except to say that the chairman had relied extensively on newspaper articles. The facts, Commissioner Washington said, “are well-documented and I am not sure that the newspaper accounts adequately reflect what the situation is.” He said “that, in all candor, the District has attempted to proceed within the bounds of its understanding. Here and there we may have faltered, but on the whole I think we have, to the fullest extent of our ability, tried to resolve the entire matter before us”:

I would like to note at this time that we are building, and some of the complaints around the city indicate this, a good amount of highways; actually \$65 million is being built at this moment in freeways, but that is not really what I am getting at.

The city had made “an honest endeavor to comply with the requirements of the 1968 and 1970 Highway Acts.”

He submitted a status report, prepared by Deputy Mayor Watt, for each of the projects listed in the 1968 and 1970 highway legislation, summarized here:

Three Sisters Bridge, I-266: Enjoined by court order of August 7, 1970, pending safety findings, economic and social effects certification and design public hearing compliance. The hearing was held December 14-16, 1970 and the design report was submitted to the Department of Transportation on March 31, 1971. The environmental statement was under preparation.

Potomac River Freeway, I-266: Per the conference report on the 1968 Act, the District began right-of-way acquisition on October 1, 1969, and ordered the design consultant to begin work on September 9, 1969. “A design hearing would seem to be required and consultant effort is pending towards such a *hearing* in the summer of 1971.”

Center Leg of the Inner Loop, I-95, terminating at New York Avenue: Construction has continued to Massachusetts Avenue south of New York Avenue. The city is awaiting HUD’s approval of the air rights development between H and K Streets before work begins on the segment to New York Avenue.

East Leg of the Inner Loop, I-295, terminating at Bladensburg Road: The conference report for the 1968 Act called on the city to direct the consultant for the portion between Barney Circle and Benning Road to resume work. Consultant recommended design in July 1969. The city received bids on the first contract on January 15, 1970, but the U.S. Court of Appeals enjoined the city from proceeding on April 6, 1970.

East Leg of the Inner Loop, I-195, terminating at Bladensburg Road continued: The conference report called for the city to negotiate a design contract for the section between Benning Road and Bladensburg Road. The city signed the consultant's contract on June 5, 1970.

South Leg of the Inner Loop: The 1968 Act called for an 18-month study period to be reported to Congress by February 23, 1970. The city submitted the report on February 20. Congress did not mention the South Leg in the 1970 Act. "This section, therefore, needs further clarification by Congress and others. With concurrence, this project could proceed at an early date."

East Leg of the Inner Loop, I-295, beginning at Bladensburg Road: The 1968 Act allowed for an 18-month study and report period. The city submitted the report on February 20, 1970. The 1970 Act called for restudy and report within 12 months of enactment.

North Central (I-70S) and Northeast Freeways (I-95): Per the 1968 Act, the city submitted a report to Congress on February 20, 1970. The 1970 Act called for restudy and a report within 12 months of enactment.

North Leg of the Inner Loop, I-95: Per the 1968 Act, the city submitted a report to Congress on February 20, 1970. The 1970 Act called for restudy and a report within 12 months of enactment.

He was there "to reiterate, in the strongest possible terms, the District of Columbia's firm commitment to the development of the rail rapid transit system." Construction must proceed "to justify the good faith of so many, particularly our suburban neighbors" and Federal officials who had supported Metro "despite some very serious problems since that hopeful day just over a year ago when ground was broken on this immense project":

The \$34.2 million requested funding is a comparatively small portion of the total present cost. But it is critical in being an inextricable part of a carefully and tightly put together financial and construction plan for the total system.

Further delay "would mean even greater inflationary pressures and more uncertainty regarding the marketability of the necessary revenue bonds – at the very time when President Nixon has proposed a very sound plan for resolving these problems."

He recognized Chairman Natcher's commitment to Metro. "I believe that you, perhaps even more than I, understand what I mean when I say that in my opinion it is the lifeblood of the Nation's Capital." He urged Chairman Natcher to help find a way forward. "This is my concern,

my earnest plea that we do so and that we take out commitments strongly at this time.” [pages 1010-1011; the status report appears in Second Supplemental Appropriation Bill, 1971, Committee on Appropriations, U.S. House of Representative, 92d Congress, 1st Session, Report No. 92-187, pages 101-103]

Chairman Natcher asked the new members of the subcommittee if they had any questions for Commissioner Washington. Representative Stokes had no questions but thanked Chairman Natcher for his “well-documented and comprehensive statement.” Representative Scherle agreed with Representative Stokes’ “eloquent statement” and promised to do his homework to catch up with the subcommittee’s work.

Representative McEwen noted that the articles Chairman Natcher had produced for the record gave the impression that “this whole problem was brought about by one man, namely you, sir.” Having served on the Roads Subcommittee of the Committee on Public Works for 6 years, he recalled “some actions taken in that subcommittee and the committee . . . and the entire Congress and signed by the President”:

If nothing else, Mr. Chairman, I would hope that there could be an increased awareness of the fact of what you refer to, that we do have Federal highway laws that were passed, and are law, and it is more than just one or two people who have strong feelings on the need for both mass transit and highways.

Referring to the \$20 million in studies, he said that without exception, the studies “said that there was a need for both mass transit and for a highway system.” He hoped both would go forward.

Representative Myers said he also appreciated the chairman’s statement. He promised to do his best to cooperate with Commissioner Washington. [pages 1011-1013]

General Graham’s formal statement summarized the status of Metro design and construction, concluding:

I cannot too strongly stress the urgency of the appropriation of these funds. We have just revised our operational phases to take into account our financial and construction problems. Our schedule is compressed as far as possible without impacting the completion date of 1979 and further upsetting the associated financial planning.

WMATA Chairman Sickles, who was out of town, submitted a formal statement that referred to the 5 miles of construction that were under contract and mostly under construction. “So you can see, Metro is no longer an abstraction. It is well and visibly underway.”

He summarized the restudy of construction costs undertaken in 1970 as a condition of selling the revenue bonds. The restudy identified an increase of \$500 million. However, financial consultants pointed out that “some form of tax backup or guaranty would be necessary to attract investors.” WMATA’s compact partners had discussed ways to comply with this concern, but time was of the essence:

We are most encouraged by the President's proposal. It promises to provide the means of fulfillment of the objective which the Congress and the metropolitan community has sought for well into two decades. We pledge that with your assistance, Metro will be built – built on schedule – and built with the qualities which will encourage its maximum use and to a standard worthy of the Nation's Capital. [pages 1013-1019]

On the Eve of Revolt

The plan hatched by Representatives Giaimo and Obey, along with Representatives Stokes and Silvio Conte (R-Ma.), was soon to reach the House floor as their colleagues considered the \$6.9 billion second supplemental appropriation act.

On May 6, Chairman Natcher had again prevailed in withholding the District's matching funds in an Appropriations Committee vote behind closed doors. In the majority report, he said he would be willing to reconsider the rejection "at a later date . . . in anticipation that the current highway-subway impasse will be resolved." [Second Supplemental Appropriation Bill, 1971, Committee on Appropriations, U.S. House of Representative, 92d Congress, 1st Session, Report No. 92-187, page 13]

In a dissenting minority report, Representatives Giaimo, Obey, Stokes, and Conte said Metro was "a sound and profitable investment" that should remain on schedule. They said, "The District must, of course, comply with congressional directives and we feel that it is in substantial compliance with appropriate directives of the Highway Acts" of 1968 and 1970. They knew they faced an uphill battle, as the *Post* reported:

The basic strategy of the dissenters, one insider said, is to crack the façade of solid support previously enjoyed by Natcher in withholding the subway money. This, he added, could make it easier for Senate conferees to prevail when the money bill goes to a House-Senate conference. [Pages 99-103]

Although the Senate supported releasing the District's share, Chairman Inouye was "reliably reported" to be worried that defeat of the dissenters' plans on the House floor "might make it harder for him to prevail in conference." [Boldt, David R., and Eisen, Jack, "4 Vow House Fight Over Metro Funds," *The Washington Post and Times Herald*, May 7, 1971]

Representative Gude wrote to all his House colleagues in support of the challenge:

There is no sensible basis for holding up these funds any longer, particularly in view of Congress' earlier commitments (1966 and 1969) to fund the subway program It appears that the District government has complied with all elements of the law and we fear that any further delay in the release of the \$34.2 million will endanger the very life of this vital project. [Kneece, Jack M., "Metro Proponents Challenge Natcher," *The Evening Star*, May 9, 1971]

On Sunday, May 9, Senator Inouye appeared on a local public affairs show, WRC-TV's "Dimension Washington." The Senator could understand Chairman Natcher's position:

In some ways I agree with him. I can't help but feel that certain people in the Department of Transportation have not been pushing this the way they should.

If the White House had come out forthrightly and assured those for a highway system that it would be built, I'm certain the Metro would be built.

In a telephone interview with the *Post*, Chairman Inouye explained that the root of the problem was that the Transportation Department "has been a little slow" in ensuring compliance with the 1968 and 1970 Highway Acts. "Someone has been dragging his feet, and it's noticeable to many, not just to Mr. Natcher." [Prince, Richard E., "Metro Fund Holdup Laid to White House," *The Washington Post and Times Herald*, May 10, 1971]

Editors of the *Star* and *Post* welcomed the challenge to Chairman Natcher. "Finally, after all these years," the *Star* editorial began, four dissenters had broken with "past practice" to set the stage for "a House floor fight – possibly a major fight – when the issue is called up next Tuesday." Clearly, "next Tuesday's revolt will be an uphill struggle [for Metro] . . . which everyone accepts," and it would turn on whether the city and the Department of Transportation, as Chairman Natcher contended, "have failed to comply in good faith with Congress' freeway-building demands."

The *Star* urged the House "to clear the subway funds immediately, and to couple that action with a clear-cut new demand for action on the highway construction previously ordered." Chairman Natcher's conciliatory comment in the majority report "strongly suggests that with a little more effort on the part of Mayor Washington and the White House, an agreement can be reached." ["Subway Revolt," *The Evening Star*, May 8, 1971]

On May 11, the day of the challenge, the *Post* anticipated the vote by calling it a "test both of the attitude of the 92d Congress toward the nation's capital and the ardor of the White House for the transit program here." This was the "first challenge on the House floor against five years of subway fund-withholding tactics" by Chairman Natcher. Representative Giaimo, the leader of the challengers, was optimistic, citing sympathetic House members and national conservation groups. "You don't go into these battles if you're going to lose."

However, some key figures were absent on this day, including the Nixon Administration:

The White House press office did not respond to inquiries on what steps, if any, the administration is taking. A spokesman for the Department of Transportation said that agency "certainly wouldn't get into anything that would infuriate the Appropriations Committee," which voted last week to withhold the subway money.

The office of Minority Leader Ford indicated he would support the committee, while WMATA "steered clear of involvement." The city's involvement had been "quiet." Deputy Mayor Watt had attended strategy sessions, and the city was trying to persuade undecided Republican Members of Congress, but Mayor Washington "left town yesterday for Bermuda on his first vacation since taking office."

The *Post* explained the strategy:

Giaimo is seeking not only the backing of liberal Republicans and Democrats, whose support should be nearly automatic, but also the support of nationally based pressure groups. Giaimo apparently has succeeded in convincing conservation groups that a subway will cut pollution and is therefore an environmental issue.

The Sierra Club and Friends of the Earth were among the supportive groups. Robert Waldrop of the Sierra Club said, “The very name of Natcher increases the pulse rate among antifreeway people across the country 10 times or so.”

The Democratic Study Group, which included more than 100 liberal Representatives, put out a “special alert” to its members, while Representative Gude planned to contact the 30 members of the Republican Wednesday Morning Club. Representatives Gude and Fraser wrote in a joint letter that, “Any further delay . . . will endanger the very life of this vital project.” Delegate Fauntroy had enlisted support from the 13-member House Black Caucus.

Representative Obey informed reporters why he had joined the fight. “I’m much more interested in hospitals and schools. But I don’t want to see the subway lost in a phony controversy. If they have some other objection, let them get it out in the open.” [Boldt, David R., and Eisen, Jack, “Fight is On to Get Metro Funds,” *The Washington Post and Times Herald*, May 11, 1971]

In an editorial that morning, editors of the *Post* acknowledged that it was “probably too much to expect the men and women of the House Appropriations Committee would buck their leaders” by voting in committee for Metro funding. There couldn’t be “a whole lot of political mileage in quarreling with their seniors over a mere \$34.2-million request.” Now, the entire House “will be asked to decide whether this region will have a subway or not.”

The editors praised Representative Giaimo and his cosponsors for deciding to fight their chairman. The traditional argument that Congress would release the Metro funds when it received evidence that the freeways were underway “sounds like a reasonable stance”:

But is it reasonable to ruin a regional transportation system because of a dispute with the city on another count? Is Metro the only club Congress can use to work its will? When the suburban taxpayers refuse to take any more financial risks [by contributing their share for Metro], and when the bonds cannot be sold for the subway – and when we are left with a set of expensive empty caverns around town – will Congress have acted *reasonably*?

Surely Congress could find some other way to show its dissatisfaction than “to kill the subway [and] ruin any chance of arriving at a ‘balanced’ transportation system here.” The editorial concluded:

When the issue comes to a vote on the floor, we hope every congressman will consider the question not out of pique at the District government – but as a matter of vital concern to all the people of this area. [“Does the House Want Metro or Not?” *The Washington Post and Times Herald*, May 11, 1971]

Day of the Revolt

Chapter III of the supplemental appropriations act for FY 1970, H.R. 17399, covered the District of Columbia. Representative Giaino introduced an amendment that proposed to insert the following:

Loans to District of Columbia for Capital Outlay

For an additional amount for “Loans to the District of Columbia for capital outlay,” \$34,178,000, to remain available until expended and to be advanced upon request of the Commissioner to the general fund

District of Columbia Funds

Capital Outlay

For an additional amount for “Capital Outlay,” \$34,178,000, to remain available until expended.

He acknowledged from the start that it was “difficult . . . to stand on the floor of this House and try to do something for the District of Columbia which we think is right.” The White House and the Department of Transportation supported Metro wholeheartedly, and yet here he was, he said, asking the Administration and the Republicans “to put their money where their mouth is” by releasing \$34 million in District matching funds that had been blocked for years “because of the impasse in the struggle over the highway system.”

Chairman Natcher, “for whom I have the greatest affection,” supported a balanced transportation system of freeways and subway, but was preventing the District from paying its matching share for Metro even though Maryland and Virginia had paid their share:

I say this is not right. The people who are fighting about the highways – for the highways and against the highways – have their reasons and both have their remedies. They have taken legal remedies and proper remedies. They are in court. The Three Sisters Bridge is being held up by an injunction. There is another ruling against one of the other roads in the freeway system. The fact of the matter is that we, in the Congress – we who hold so much power – should be above maneuvering, forcing, and trying to blackmail the people into compliance.

Congress had voted \$180 million for the subway in the Department of Transportation budget to pay the Federal share, but at the same time “says on the District of Columbia share – the local share, the \$34 million share that we are withholding – Congress says ‘You are not in compliance with the law on highways.’” He added, “We can work out the highway problem, but let us not hold the subway hostage.”

He was concerned that without the District matching funds, WMATA would have to stop construction. “At this late date for Congress to jeopardize the construction of the subway already

authorized and approved by the Congress would be improper and unseemly.” Every delay simply increased the cost of Metro, then estimated to cost \$2.9 billion for the 98-mile system.

Representative Giaimo concluded his initial remarks:

As I said earlier, let the various forces who are fighting the freeway and the subway fight, using their legal means, and if they use some maneuverings and other unethical means, so be it. But let us in the Congress be men – and I say that generically with the gentlewomen present – let us be men in Congress and let us take the high road and say, “We are for mass transit. We are for the subway system. We are not going to hold it hostage any longer.” [Second Supplemental Appropriations, 1971, Congressional Record-House, May 11, 1971, pages 14437-14439]

Representative Broyhill supported the amendment. He thought it “interesting, when we stop to think about it,” that no one was debating the need for the Metro subway. “That question has already been decided” he said, “after so many years” of debate on Capitol Hill. He discussed the dire situation WMATA faced, with all available funds obligated or committed:

Why should we jeopardize the entire project just because of some disagreement or some misunderstanding between the Congress and the District government on another law, on another act, if it has nothing to do with this subway system?

Why should the other communities, the other States, and the people of the Nation, for that matter, be punished by being denied the use of this rapid rail system in the Nation’s Capital simply because someone downtown, someone in the executive branch, possibly, has not done as much as we think he should have done in complying with the law?

There are other ways of making them comply with the law. Holding up these subway funds has not been too effective up to this point. [pages 14439-14440]

Delegate Fauntroy commended Representative Giaimo for “his courage and intelligence” in introducing the amendment:

It makes absolutely no sense to fund the Federal share of the subway system while withholding, with no logical basis, the District’s. I agree that it is unconscionable to hold the subway hostage to force freeway construction, and I further agree that delaying the Metro funding will result in added cost escalation which we can ill afford in this community.

He contended that the District was in compliance with the 1968 Act. It began construction of the Three Sisters Bridge, which was halted by court order:

With regard to the other aspects of the freeway system mandated by the Congress in the Highway Act of 1968, construction is underway or being planned or being studied in accordance with the Highway Act of 1970. Nothing more can be required of the District of Columbia government which has proceeded diligently to comply with the law, despite widespread and deeply felt citizen opposition to several roadbuilding projects.

The subway was vital to the environmental and economic future of the Washington metropolitan area, as Congress recognized when it “gave overwhelming approval to the interstate compact creating the Washington Metropolitan Area Transit Authority” in 1966. He concluded:

I hope as you approach your vote on this amendment that you will vote not because it is safe, not because it is politic, not because it is popular and good, but because it is right that we move on with the construction of our subway system. [page 14440]

Representative Gude picked up on Delegate Fautroy’s final comment, saying, “as to whether it was politic to support this amendment, let me say that it is particularly politic, because by supporting this amendment you are going to save some taxpayers money.” Without the amendment, “the cost of the Metro system will escalate, and our commitment is going to cost more and more.” He cited several factors contributing to Metro cost increases that Congress could not control, including interest rates and a 7-percent escalation factor. The one factor that Congress could control was its own reluctance to let the District pay the share it is required to pay under the interstate compact backing WMATA. Congress could continue to refuse the matching share and contribute to the cost increases or “we can get on with the job of building the Metro system which the National Capital region so sorely needs.” [pages 14440-14441]

Representative Samuel S. Stratton (D-NY), a former mayor of Schenectady who had won election to the House in 1958, supported the Giaimo Amendment. He referred to ping-pong diplomacy that was in the news, referring to an exchange of ping pong players as a step in improving relations with China:

One of the things that we discovered is that even in Peking they have a subway, and a rather modern one, and a rather clean one. They have had one in Moscow for some time. So, if we are going to try to keep up with the Soviets in our Polaris submarines and in building ballistic missiles, I think we ought to at least try to match them in developing a modern, clean, and attractive subway here in the Capital of the free world.

Because of his respect for Chairman Natcher, he was disturbed to read in the newspapers that “one Member of Congress is holding up the financing of the subway.” He thought that the entire Congress should decide this matter, and Representative Giaimo had provided the opportunity.

He did not know the ins and outs of the Committee on Appropriations or the District freeway battles:

Well, I know enough about my own district in upstate New York – in Albany, the capital of New York State, and in Schenectady – that we have just about come to the end of the road on the amount of concrete that we can successfully put in metropolitan areas. Today, the people in Washington are not the only ones who are objecting to more interstate highways being built in their backyards. They are objecting in Schenectady and in the town of Guilderland, and in Albany, and I am sure they are objecting in many of your districts, too.

So let us not make the Metro the hostage of more concrete here in the District of Columbia, and certainly let us not make it the hostage of the Three Sisters Bridge. I drive down the George Washington Parkway each morning, and I would hate to see that beautiful Potomac vista damaged by the construction of another bridge.

In addition to damaging the Potomac vista, the bridge would affect Glover-Archbold Park. “You just cannot have a bridge without all kinds of abutments to it, and one of the very beautiful park areas of this city, which I have enjoyed off and on for 30 years, is destined to be damaged if not entirely destroyed if that Three Sisters Bridge goes up.” [page 14441]

Representative Conte commended Representative Stratton:

The gentleman made mention of ping-pong diplomacy. Let me tell you that the ping-pong game that they have been playing with this transit system here in Washington, D.C., makes the ping-pong game that they played in Red China look anemic by contrast. [page 14441]

After several additional Representatives explained why they supported the amendment, Representative Clarence D. Long (D-Md.), who had represented a district based in the northeastern suburbs of Baltimore beginning in 1963, was the first to oppose it. He was concerned about the increasing cost of Metro. First it was a 23-mile [sic] network estimated to cost about \$400.6 million. Then it turned into a 98-mile system costing \$2.5 billion with two-thirds of the funds to come from the Federal Government. “Now we find that \$2½ billion figure has gone up.” It was up to \$3 billion at this point, but it would probably end up at \$5 billion:

Now, Mr. Chairman, this is just the beginning. There are going to be more readjustments on these figures. I think we are going to find that this subway is a disaster.

He contrasted the Metro plan with the New York City subway:

New York is probably more ideally situated for a subway than Washington because it is a long narrow city where people can get to the local subway easily and go long distances. In contrast, Washington, D.C., is more spread out; most of the people in Washington will be living far from any subway station.

He added that even with a 30-cent fare, the New York City subway cannot support its operating expenses from the fare box, running a projected \$120 million annual deficit. Once Metro opened, it would run an operating deficit, just like the Nation’s other rapid rail systems:

The answer to Washington’s transportation crisis is better traffic management; a ban on cars in the city to force people to ride the buses; a more efficient bus system; and the movement of a large number of Federal installations to office space outside the District and not to move any more Federal activities into the city. We are trying to put too many angels on the head of a pin

As some of my colleagues have pointed out, the D.C. subway system is the biggest public works project in history – bigger than the SST and four times the cost of the Aswan Dam.

We are throwing \$5 billion away for Washington, D.C., because a lot of Congressmen and their staffs want to have a little extra convenience. They probably will not use the subway, but they think other people will. Traffic will decrease and congressional employees will be able to drive to the Capitol more quickly. [pages 14442-14443]

Representative Bow, the ranking Republican on the Committee on Appropriations, had objected the instant Representative Giaimo introduced his amendment. The amendment was not germane, he said, because amendments had renumbered the sections; chapter III was now Foreign Operations. Moreover, Representative Giaimo “did not show us the courtesy of submitting the amendment to us.”

Representative Bow was overruled, but when permission was sought to allow discussion of Representative Giaimo’s amendment beyond his allotted time, Representative Bow pointed out that he had objected when Representative Giaimo was granted 5 minutes, but he would not object at this time. “My blood pressure has gone down just a little bit” since his previous objection had been overruled.

Representative Bow had lived in the Washington area for years. He had arrived as general counsel to the Subcommittee on Expenditures in the late 1940s and held a variety of posts before winning election to the House in 1950 from a district based in Canton, Ohio. He lived in the Greenbriar, an apartment building at 4301 Massachusetts Avenue, NW. Now, he took just a few moments to say he supported the work of the subcommittee, opposed the Giaimo Amendment, and wanted to defend Chairman Natcher:

This cannot be said to be one man alone who is holding this up. It is the subcommittee and the full committee who have supported the gentleman who is chairman of that subcommittee. I am looking forward to his address to the House this afternoon. I am sure that those who will hear him will agree with him as we will defeat the Giaimo amendment. [page 14443]

That one man, Chairman Natcher, rose to oppose the amendment, repeating much of his recent statement during the subcommittee hearing, including documentation by newspaper articles and editorials.

The committee, he said, had long supported a freeway and rapid rail transit system for Washington. “In order to meet the tremendous day-by-day growth of traffic the highway program must be carried out along with the present rapid rail transit system that is now under construction.” The committee had recommended funding for Metro in 1966 and again in 1969, but “has not approved at this time the request for \$34,178,000 to finance and provide the District of Columbia’s share of the current costs of the construction of the rapid rail transit system.” The \$38,308,000 requested in the regular 1972 budget would be considered at a later time “in anticipation that the current highway-subway impasse will be resolved.” He made clear:

The provisions of the Federal-aid Highway Act of 1970 [sic] must be complied with by the District officials before our committee can recommend to the House of

Representatives that additional amounts be appropriated to continue construction of the rapid rail transit system.

He emphasized that no committee of Congress had selected any of the elements of the District's Interstate network. District officials had selected them and worked out detailed plans for them. "Neither the location for the Three Sisters Bridge nor the location of any highway project was selected by any committee of this Congress."

He recalled the history of the District's freeway plans, starting with BPR's designation in the Yellow Book (September 1955), and including the 82 studies conducted on the routes. He continued:

For instance, on the Three Sisters bridge [sic] we have eight studies and on the Potomac River freeway [sic] we have eight studies. When the footdragging began the studies began and this in the main was a system used to stall the freeway program. There were some people back in the beginning who believed that this was the only method to be used in order to force the Congress to approve a rapid rail transit system in our Nation's Capital

By virtue of delay and failure to comply with the law set forth in the Highway Acts of 1968 and 1970 the cost of the freeway projects are in some instances more than double our original amount estimated.

The Committee on Public Works had "made every effort possible to see that" the District complied with the September 1955 approvals:

After it was clear that the District of Columbia did not intend to construct the freeway program which it had requested and approved, the Public Works Committee decided that in all fairness to the States of Maryland and Virginia, who had relied upon the system agreed upon in the District of Columbia and in the States of Maryland and Virginia, brought forth the provision in the Highway Act of 1968 calling upon the District of Columbia to construct certain projects of the freeway system which the District had approved.

The two States developed their Washington area networks on the assumption that the District would build its segments:

Along about this time the Emergency Committee on the Transportation Crisis was formed. Statements were issued by members of this committee that there would be no more exits or entrances into our Capital City. The committee proceeded to make every effort possible to destroy the freeway system which had been approved and to stop construction on each and every project in the system.

Section 23 of the 1968 Act had required the District to begin work on the Three Sisters Bridge, the Potomac River Freeway, the Center Leg of the Inner Loop, and the East Leg of the Inner Loop, and to study the remaining segments and report to Congress within 18 months. The

District had not “made any effort” to comply until the Revenue Act of 1969 denied the Federal payment to the District unless the President sent a letter assuring compliance with Section 23:

The compliance at that time consisted of starting the Three Sisters Bridge under construction, commencing engineering work on the Potomac River Freeway, continuing construction on the center leg of the inner loop, and advertising and receiving bids on the first section of the east leg of the inner loop. The District of Columbia had 60 days to award a contract on this latter program but refused to do so before a suit had been filed in court.

The District submitted its report to Congress with a recommendation to extend the East Leg through the National Arboretum “and forced a change in the upper end of the east leg which had already been directed by the act”:

The east leg therefore represented a maze of noncompliance with the 1968 act. The suggestion of going through the National Arboretum was premeditated, of course, and brought about hundreds of letters from fine women throughout this country objecting to extending the freeway system through the National Arboretum. Those who had made up their minds to stop the freeway system in the District of Columbia knew this, of course, and decided that notwithstanding the fact that such a proposal was fraudulent, it might to some extent place them in a position of being able to say that they were complying with the Highway Act of 1968.

The Department of Transportation’s report was in “complete disagreement” with the District’s recommendations, and neither had consulted with Maryland or Virginia highway officials. “In fact the council of governments which must be consulted on these projects had rejected the District’s plan in early 1969.”

Section 129 of the 1970 Act allowed 12 months for further study of the East Leg, the North Leg, the North-Central Freeway, and the Northeast Freeway. “Over 4 months of that 12 month period has elapsed and the District has not as yet begun these studies.”

The Three Sisters Bridge was “a most important part of the freeway system” that was being held up in the courts. He recalled President Nixon’s letter assuring him that the Attorney General and the Department of Transportation’s General Counsel would assist the city in responding to the lawsuit. “At this time they are apparently at odds with each other as to how to proceed.”

He recalled the protests when construction of the bridge began:

Prior to the letting of the contract a group of people appeared before the city council. At the time that this matter was under discussion, a general disturbance took place with ashtrays thrown at the members of the city council and with a number of arrests made. Mr. Chairman, you will recall that a subpoena [sic] was issued and served on me following the arrests of a number of people who for years now have violated every law attempting to stop the freeway system from going under construction and according to the

newspapers some of those arrested were demanding that I appear at the time they were to be tried to explain just why it was that the Highway Act of 1968 must be complied with.

You will recall, Mr. Chairman, what transpired at the time I presented the subpoena to the House. Of course, the House refused to recognize the subpoena and the Highways Acts of 1968 and 1970 are still the law and must be complied with by the District of Columbia officials.

He recalled the protesters at the construction site:

On a number of occasions the District of Columbia police had to be called to maintain order and during the disorders a trailer containing valuable tools and equipment was set on fire and destroyed with the damage amounting to nearly \$100,000.

The Department of Transportation and the District had rejected the advice of the Attorney General and the District Counsel to appeal Judge Sirica's ruling. Instead it completed hearings on the design in December 1970. Four months later, the only thing that had happened was that "someone suggested that an 81-foot model be constructed" to verify the safety of the design:

A contract was let for the 81-foot model and according to my information, Mr. Chairman, several days ago the model while under construction broke and it will require several months before the model will be completed and used. Here again we have nothing but deceit and footdragging, Mr. Chairman.

Meanwhile, the District was paying the contractor \$500 a day damages (\$15,000 a month) for halting work on the Three Sisters Bridge.

Chairman Natcher turned to WMATA's financial difficulties. He pointed out that his committee had been skeptical from the start that the 98-mile Metro system would cost \$2.5 billion. "I believed then and I believe now" that the system would cost at least \$4 billion and might cost \$5 billion. Nevertheless, WMATA officials appeared before the committee to explain that the system could be built for \$2.5 billion. They admitted to a cost increase of \$480 million only during a hearing the previous fall. The District's share of the new estimate would be \$269,700,000 instead of \$216 million.

Investors had refused a year ago to purchase \$835 million in bonds backed by revenue from the fare box. The committee had always maintained, he said, that bonds could not be retired from fare box revenue "and this has been the experience of all other communities operating a rapid rail transit system." The brokers were insisting that the Federal Government guarantee the bonds.

(As explained earlier, WMATA did not attempt to sell revenue bonds in 1970. The agency had consulted with Wall Street firms during the year that indicated investors would not purchase the bonds WMATA planned to offer in 1971 if they were backed only by farebox revenue.)

He called Metro "the largest single public works project in the history of the United States of America." By comparison, the Manhattan Project to create the atomic bomb cost \$1 billion.

None of the individual projects by the Tennessee Valley Authority or the space program exceeded \$1 billion. "Even the Aswan Dam project only cost \$1,200 million."

Chairman Natcher said:

The Highway Acts of 1968 and 1970 must be complied with by the District of Columbia officials and both rapid rail transit and the freeway system must proceed together. Further delays and footdragging will not be accepted and such action can, if continued endanger completion of the rapid rail transit system.

The Committee on Appropriations had acted "in good faith at all times and we intend to remain in this position." The committee wanted to release the \$34,178,000 in supplemental appropriations and the \$38,308,000 requested for FY 1972 and all additional amounts for Metro. "Construction work on the Three Sisters bridge [sic] must begin and the provisions set forth under the Highway Acts of 1968 and 1970 must be complied with in full by the District of Columbia." [pages 14443-14445]

Because he wanted to ensure that his colleagues had a better understanding of the impasse, he introduced for the record his statement at the start of hearings on the Second Supplemental Appropriation Act. [pages 14445-14456]

Following Chairman Natcher's remarks, other Representatives expressed their views on the Giaimo Amendment. Chairman Mahon of the Appropriations Committee briefly stated, "I want to express opposition to the pending amendment and offer the hope that the amendment will be defeated." He did not elaborate on his view. [page 14456]

Representative Davis opposed the Giaimo Amendment. An attorney, he had joined the House in 1947 after winning a special election and served until 1953 after losing an election to the Senate. He returned to the House in 1965. He said that "in this drama of the saints and sinners here this afternoon I rise to fully support the role of the alleged chief sinner of the piece, the chairman of our subcommittee, the gentleman from Kentucky." He wanted to make clear just who was supporting this amendment:

There have been self-cast here this afternoon in the role of the saints, one subcommittee member who attended neither the hearings nor the markup of this supplemental measure; one who offered an amendment to bring the government of the District of Columbia to a halt by an amendment to the District of Columbia revenue bill to deny all federal payments until the freeway system was under way; one who voted against the SST after the authorization and the commitments had been made, but who now argues that we should provide the money because it has been authorized, and there have been commitments made; and two who obviously do not want a balanced transportation system, for they patently revealed their opposition to the bridge and to the connecting freeways.

Those were the same types as the people in the District who want to stop automobile pollution by not funding street repairs:

[In] the appropriation for this fiscal year you will not find one single dime for the repair of the streets in order to keep the automobiles running in the District of Columbia. And those people in the Government did not come back in the supplemental which is now before us for one single dime for that purpose. That is one way you can avoid the pollution of automobiles.

All the committee was doing was insisting that District officials implement the freeway and Metro plans that they agreed on to create a balanced transportation system. The subway funds would be released “on the day that we receive tangible commitments to a balanced transportation system for the District of Columbia.” He added:

We have been fooled and we have been disappointed too many times, to give the go-ahead to one segment of a balanced transportation system until we have assurances that the other facets of that balanced transportation system will be implemented also And that is the position this Congress has taken time and time again. I do not believe we ought to run away from a position that is well grounded and one that we have consistently taken in the past. [pages 14456-14457]

Representative William L. Scott, whose Virginia district was based in Fairfax County beyond the Capital Beltway, was the biggest surprise of the debate because he opposed the Giaimo Amendment. He explained:

One of the most frustrating things that I face each day when I drive down Interstate 66, and get to the beltway, and then have to find some side road to come on in to the District of Columbia to work.

Thousands of Virginia commuters were similarly frustrated. Metro was to be built in the median of I-66 “and until you have the right-of-way for that road, you cannot have the rapid rail transit in Virginia.” Representative Scott would be the only area Congressman to vote against the amendment.

Representative Koch responded to Representative Long’s comments about New York City. The implication was that New York City wished it did not have a subway generating operating deficits. The truth, Representative Koch said, “is the city of New York could not exist without a subway system. We want an even greater subway system.”

Representative Long interrupted to say he did not intend to say the New York City subway system was not a good system. He had ridden on it and knew it helped shape the city. “I merely want to point this out that never in the history of the New York City system have the people in New York been willing to pay a fare that would even cover its operating expenses; is that not correct.”

Representative Koch did not reply directly. “Let me say to the gentleman that in this country we subsidize everything to some extent, especially municipal services – and rightly so.” Operating subsidies for subways were needed. (He was one of the leaders in the House in trying to open the Highway Trust Fund to provide for transit construction and subsidies.) He emphasized that the

Washington area needed mass transit to reduce bumper-to-bumper traffic that “just cannot move”:

To say that this District does not need assistance to build a subway and that Federal funds for the subway system should be shut off until the citizens of the District withdraw their opposition and accept highways they do not want, is just outrageous.

Representative Giaimo said they were debating the “wrong” issue. Congress had already approved the Metro system and appropriated \$180 million for the Federal share. “The question is whether or not we are going to hold up on an appropriation [for] something we have already approved.” [page 14457]

Representative Obey said that “it is difficult for me to get a sweat up over a subway system” because he was more concerned about hospitals and schools. However, there were four reasons why funds for the District’s share should be released. First, as Representative Giaimo had just pointed out, “it is absurd and it is contradictory for the Congress to oppose with one hand what it is doing with the other.”

Second, the actions the chairman and others objected to regarding freeways “have nothing whatsoever to do with the action of the Metro,” which was “an entirely different entity, and I think we ought to treat it as such.”

Third and most important, withholding the funds was causing the cost of Metro to increase, the very thing some of his colleagues objected to. If, as some said, it was the most expensive public works project in history, delaying it would only add to the cost.

He pointed out that the chairman had assured the House that if the funds were not appropriated now in the supplemental, they would be considered during the regular appropriation:

I submit to you that we have heard that story for 2 years. We have considered this for 2 years, and in the 2 years I have been on the subcommittee we have considered it and considered it and considered it, and we have not released the money. The time for considering has passed.

If any of his colleagues were simply opposed to Metro, they should simply say so:

But let us not hold it up as part of a strained argument with the District as hostage for the construction of highways. We should not do it in that way. If you think the system is too expensive, then you ought to say so. But once the program is on the books, we ought to release the money so that the Metro system can get about its business of doing what the Congress told it to do.

Fourth, several of his colleagues had talked about the District’s noncompliance on highways:

I think it is a strange position, indeed, for the Congress to object on the one hand to the District not being in compliance on highways while our own actions on the Metro system force the District into noncompliance on the Metro system construction. That is what we do if we do not adopt this amendment today. [page 14458]

Representative Conte rose in support of the Giaimo Amendment. He did not wish to oppose Chairman Natcher, “one of the most able Congressmen in the U.S. Congress.” However, as a member of the Subcommittee on Transportation, Committee on Appropriations, he had supported Metro appropriations. “I have voted for the 1970 Federal share of \$82.9 million, the 1971 Federal share of \$180 million and the 1972 Federal share of \$150 million”:

These sums have been approved by the full committee; they have been approved by the House; and they have been approved by the Senate. Thus while Congress has consistently approved the Federal share, it is now being asked to deny the District of Columbia share.

We cannot allow this contradictory set of circumstances to continue

We are being asked to deny the District of Columbia its right and duty to comply with a congressional directive that it pay its agreed share.

He pointed out the contradiction involved in blocking the city from meeting its obligation to satisfy a congressional mandate by claiming it is not complying with another congressional mandate, namely construction of freeways. “I cannot in all logic support this type of contradiction.”

He agreed that the mandated freeways should be built, but his colleagues should remember that WMATA “has no responsibilities for the building of the highways and cannot be held accountable for their status in any of the three States that are signatory to the compact.”

As for the Three Sisters Bridge, it was being held up by the courts, not the District of Columbia. The design selected to satisfy the Commission of Fine Arts would be the “longest span in the world,” resulting in questions about its safety. Therefore, FHWA had “asked the court that they be allowed to contract for a model of the bridge . . . to bring out all the concrete stresses and strains that the bridge will undergo in the air after it is built”:

That is what is holding it up right now. When this goes in then they will be able to begin construction of the Three Sisters Bridge. So we cannot blame this on the District of Columbia.

He concluded:

The States of Maryland and Virginia have cooperated 100 percent; the Department of Transportation has cooperated 100 percent. Unfortunately we are in this bind here. I think it behooves us as the Congress of the United States to untangle this mess. [pages 14458-14459]

Several other Representatives expressed their views. Representative Wayne L. Hays (D-Oh.), who opposed the Giaimo Amendment, addressed the arguments in its support. First was the argument that the subway would “cure pollution” by shifting people out of cars. True, motorists would use less gasoline, but the subway would require coal to generate electricity for its operation. As a result, “you will have the air around here so full of sulfur fumes and smoke that if you think you have a smog problem now, just wait until you try that.”

The issue was not where to have a subway system. Congress had authorized it and he had voted for it. However, Congress also authorized a balanced system, “and you have a bunch of faceless people downtown who are saying, ‘We will take the money you authorized and build what we want to build, and the parts we do not want to build we will not build.’” What it boiled down to was whether the Congress or those faceless people would decide what the area needed. He said that if you just look at a map of the 98-mile Metro system, “you will see it does not go to where all of the people are.” That is why freeways are needed as well as Metro.

Another argument was that the delay was increasing the cost of Metro. The delay in building the freeways also was causing their cost to rise. “So what you are coming down to really [-] is the Congress going to make this decision or are some people downtown going to make it.”

The only reason all the area residents were here was that the capital was in Washington. Most of its functions could just as easily have been handled elsewhere, such as in his district based in Belmont County, Ohio:

You know, I am up to my knees in crocodile tears now about the citizens of Washington, D.C. What citizens of Washington, D.C.? Why are they here? They are here because the Capital is here and because it is to their profit and interest to be here and for no other reason. You can just bet your bottom dollar they are trying to hold up the freeway, this bunch downtown, because there is more money in it for somebody to build a subway. Do not forget that part of it, either, because I have been around for a long time and have seen them work. I say that we ought to say to them, “You build the balanced system we told you to build or you do not build anything. Take it or leave it.”

According to Stephen Green in the *Star*, “District Del. Walter E. Fauntroy, Democrat, closed his eyes in anguish as he heard Hays,” whose perch as chairman of the Committee on House Administration, which oversaw committee budgets, office expenses, and other housekeeping functions, made him one of the most powerful men in Congress. [page 14459; Green, Stephen, *Metro Vote Lost, Ally Won*, *The Evening Star*, May 12, 1971]

Representative John D. Dingell (D-Mi.), expressed his views. Representative Dingell, who had represented a Detroit-based district since winning election in 1954, complimented Chairman Natcher as “an honest, honorable, and dedicated public servant in every particular.” He continued:

However, Mr. Chairman, I think it is time that the House recognize what we have been doing in the District of Columbia in the last few years is entirely wrong. I think it is absolutely indefensible for this Congress to hold up the construction of a subway over a

quarrel as to highway construction when the issues are as clear and the need is as great, and the requirements of the District of Columbia are as clear as they are.

Given that the “city of Washington is almost entirely paved,” hardly a day passes without complaints about freeway construction:

The only way to abate this highway construction problem is by increasing the availability of public transit. And highways and individual auto transport of large numbers of people are from an economic, environmental, and social standpoint the most wasteful and irresponsible way of moving large numbers of people

I say it is indefensible for the Congress of the United States to continue to hold the District of Columbia hostage for the construction of highways that the people do not want. I say it is absolutely indefensible for the Congress of the United States to increase the cost of construction of a Metro system of transportation over something as frivolous and as unimportant as the construction of highways which really are not only unnecessary, but are environmentally destructive

I say it is time to adopt this amendment to give the District of Columbia the money, and the opportunity to go forward on something absolutely necessary to a great city and to the great and dignified Capital of a great nation, an appropriate mass transit system.
[page 14460]

Chairman Kluczynski was one of the final speakers. During the 1967 hearings on the District’s freeway system, he said, he had learned that \$20 million had been spent over 10 years “studying the system with no tangible results.” In Section 23 of the 1968 Act, the committee authorized construction to get underway. “Since then this program has been tied up in procedural and legal snarls. There has been no real implementation of the congressional mandate.”

No one, he said, wanted mass transit for the District more than he did. “I sincerely mean that,” but “we need a balanced transportation system for the District.” He was optimistic that “we will work this out shortly” with the efforts of the Public Works Committee, the Appropriations Committee, and the Department of Transportation. “I predict that shortly we will have both systems fully underway to help make this a better Capital for all citizens.” He did not say so but the implication was that with resolution of the freeway issues, the District’s matching share for Metro would be released soon. [page 14460]

After 90 minutes of debate, the House defeated the Giaimo Amendment by a vote of 170 to 219. The House bill on the second supplemental appropriations bill would not include the District’s matching funds for Metro construction. [pages 14460-14461]

Because the Senate was likely to include the District matching funds in its version of the legislation, the issue would have to be resolved in a House-Senate conference committee.

The vote, as Jack Eisen reported in the *Post*, “was closer than either side expected”:

It gained most support from House liberals of both parties, spurred by last-minute lobbying by national conservation organizations.

Representatives Giaimo told reporters after the vote that he was surprised that the amendment received more support than expected:

Giaimo said he would have considered 130 votes a strong showing, and noted that a future swing of 35 votes would change the outcome. "I think the result of it is that we are going to get this thing resolved," he told a reporter.

He also "predicted that the vote would strengthen the hand of the Senate conferees."

Chairman Kluczynski was surprised the amendment received more than 90 to 100 votes. He said the whole matter could be resolved within 60 days if Secretary Volpe took a strong leadership role. The 1970 Act had given the District and the Department of Transportation a year to study pending freeways:

Volpe has the issue pending in his department and has not acted, Kluczynski said. The Public Works Committee met privately with Volpe on Monday [May 10, 1971], Kluczynski disclosed. Volpe and his aides "showed up with maps and pointers and all that to give us a briefing," Kluczynski said, "and I told them I've seen enough maps; I said give us some action." [Eisen, Jack, "Subway Fund Bid Defeated," *The Washington Post and Times Herald*, May 12, 1971]

On May 14, Secretary Volpe appeared on NBC's *Today* morning show, where he said:

I believe in the not very distant future – the very near future as a matter of fact – I'm very hopeful that this subway-highway impasse in the District of Columbia will be resolved once and for all, and we'll be able to proceed both with the subway and with those freeways that we believe ought to be built.

The fate of the Three Sisters Bridge was controlled by the courts, but the Department was working on the "other problems." The Secretary said, "I'm hopeful that something might be worked out even before" the Senate votes on the District's Metro matching funds. [Prince, Richard E., "Volpe Plans Report on Freeway Progress," *The Washington Post and Times Herald*, May 16, 1971]

A *Post* editorial said that in view of the unexpectedly narrow vote, "a yellow caution light may have flashed before the senior Appropriations Committee forces who keep punishing Metro, the suburbs and the city because of a side dispute with downtown over freeways." Perhaps "with a push from the White House," enough votes could have been switched to approve the amendment. Instead of relying on Chairman Inouye and the Senate to appropriate the District matching funds, "some dramatic efforts from the administration, through Transportation Secretary John A. Volpe," were needed to prevent "the entire financial structure" of Metro from collapsing:

Assurances are desperately needed from Mr. Volpe that something is being done to demonstrate good faith on the freeway questions, even though we strongly disagree with

the tactic of holding the subway hostage to a freeway dispute. In addition, the White House must lobby among Republican House members, something it failed to do for the latest vote. Only then is there a chance that the rapid transit project will not fall apart at the seams. [“Metro: Where Was the White House?” *The Washington Post and Times Herald*, May 14, 1971]

After the Revolution

On May 13, the Senate Committee on Appropriations approved its FY 2017 second supplemental appropriations bill, which included \$34.2 in District matching funds for Metro. As the *Post* explained the next day, if the full Senate approved the bill as expected, “it would mark the third time in the past fiscal year that the Senate has voted for the \$34.2 million.” However, on the two previous occasions, the Senate had yielded to the House in conference to drop the funds.

Chairman Inouye indicated he intended to talk with Chairman Natcher to initiate “preliminary discussions” on the issue. Another controversial issue, appropriations in the bill to continue development of the SST, might delay conclusion of the conference. [Moore, Irna, “Senate Unit Approves Funds for the Metro,” *The Washington Post and Times Herald*, May 14, 1971]

Under Secretary Beggs, in a May 16 interview, contributed to the growing optimism by saying that the Secretary hoped to report to Congress on the freeways. Beggs said the “other problems” the Secretary had referred to in his *Today* interview were the Three Sisters Bridge, the North-Central Freeway, and the South Leg Freeway near the Lincoln Memorial. “What he’s trying to do is to get all of these issues resolved” before the House-Senate conference on the second supplemental appropriations act.

The report would discuss all the steps the Department and the District had taken to comply with the court order on the Three Sisters Bridge, including construction of a model to test the safety of the design. “I’m not sure that Bill Natcher was completely aware of all we’ve done on Three Sisters.” As for the required study of the North-Central Freeway to Silver Spring, the Department was close to awarding a contract for the study.

The South Leg Freeway issues had not yet been resolved with the NPS, but the department favored the District’s proposal for a 1,300-foot long tunnel under the Lincoln Memorial Plaza. The NPS favored a plan for two 1,300-foot tunnels that permitted more preservation and reduced the number of trees that would have to be removed. Critics, the *Post* pointed out, “attacked a planned 2300-foot depressed roadway with retaining walls that would connect the two tunnels. They said it would be ugly.” [Prince, Richard E., “Volpe Plans Report on Freeway Progress,” *The Washington Post and Times Herald*, May 16, 1971]

Chairman Blatnik of the Public Works Committee, in what Stephen Green called “a surprise move,” announced on May 17 that he try to break the impasse. A former educator and State legislator who had been elected to the House in 1946, he had become chairman of the Committee on Public Works in January following the defeat of former Chairman Fallon’s reelection bid. Chairman Blatnik announced, “This impasse must be resolved, and resolved rapidly.”

His interest partly stemmed from the call in the Federal-Aid Highway Act of 1970 for a balanced transportation system that must include Metro. The other factor was that he supported home rule for the city:

His announcement said he hopes for a breakthrough in the impasse after discussions with Natcher, Secretary of Transportation John A. Volpe, District officials and the chairmen of the House and Senate Appropriations Committees.

Sources said Blatnik hopes Volpe will agree to order some visible action on freeway construction to show Natcher that a serious intent to build the roads exists.

Citing the Taylor Street Bridge, Chairman Blatnik pointed out that freeway and rail rapid transit have much in common. The District had begun renovating the bridge to accommodate the North-Central Freeway, but it must be renovated "so the transit system and planned freeway may use the right of way along the Baltimore & Ohio Railroad tracks." About \$300,000 of the \$1.3 million cost of the project came from WMATA. [Green, Stephen, "Blatnik Joins Fight To Free metro Fund," *The Evening Star*, May 18, 1971]

On May 19, the Senate voted 94 to 0 to approve its version of the supplemental appropriations act, including the District's Metro matching share. Although observers thought defeat of the Metro funds in conference was virtually certain, Chairman Inouye held out hope by telling reporters that he had talked with Chairman Natcher and was "confident that the matter can be resolved in the very near future."

Secretary Volpe, according to sources, was the key to resolving the deadlock:

Those close to the negotiations among Natcher, Inouye, the city government and the Transportation Department, stressed yesterday that a simple status report on freeway projects from Volpe will not be enough to win Natcher's agreement to release the subway funds.

"Volpe has got to offer something hard and dramatic, possibly on the Three Sisters Bridge," one source said

Some insiders feel Volpe could move to renew work on the bridge's piers, since they apparently would be useful to either of two different designs. This, however, would probably invite new legal steps by the groups trying to kill the project.

"It was disclosed" on May 19 that the Secretary had met on May 7 with Secretary of the Interior Rogers C. B. Morton, who had represented Maryland's Eastern Shore in the House beginning in 1963 until taking office as Secretary in January 1971. The discussion, according to a Morton aide, covered freeway construction through Interior Department land in the District and Arlington, including the status of the Three Sisters Bridge and plans for a freeway tunnel beneath the Lincoln Memorial grounds. [Moore, Irna, and Eisen, Jack, "Hope Seen for Metro Fund Action," *The Washington Post and Times Herald*, May 20, 1971]

The *Post* was cautiously optimistic in view of reports about the pending Volpe report:

Given the years of buck-passing, legislative blackmailing and stalling between downtown and Capitol Hill over what to do about Washington's transportation system, any fresh prediction of a solution within this century has today come to be taken with a grain of salt (and sometimes a pound of flesh). It is, therefore, far too early to tell whether Transportation Secretary John A. Volpe really has a way out of the subway-freeway impasse – but at least he is optimistic.

After quoting Secretary Volpe's optimistic *Today* show comments, the *Post* editorial pointed out that the complicating question was "the awkward fact that no one is really sure at this point specifically what the argument is about." The planned report could help in this regard:

There's no telling whether Mr. Volpe's report will spring the funding, but it could go a long way toward finding out what Congress is still mad about. There is the Three Sisters Bridge, for example, which Congress has ordered built. Mr. Volpe wants to show that the administration has complied with all court and congressional orders to date on this project, and is right now awaiting laboratory tests on a new bridge design. There is also the North Central Freeway, on which a one-year restudy was ordered by Congress last year. Transportation officials now report that a contract for this study is about to be awarded

It is not necessarily a question of caving in to new demands of Congress, but a more complicated question about the extent to which all sides are acting in good faith. To begin to answer that, all parties need to know precisely what still remains at issue. ["Clearing the Air on Metro and Freeways," *The Washington Post and Times Herald*, May 19, 1971]

On May 20, Chairman Natcher, as in the past, prevailed in conference, and the District matching funds for Metro were not included in the conference report on the supplemental appropriations act. The report explained:

The conferees are agreed without question that there is a need for a balanced system of transportation in the Nation's capital. Since the action of the House denying the \$34,178,000, the Secretary now says that immediate action will be taken to comply with the 1970 Highway Act and that there will be compliance with the Highway Acts of 1968 and 1970. This action will place the Appropriations Committees of the House and the Senate in a position to approve the request in the Supplemental bill of \$34,178,000 along with the \$38,308,000 requested for fiscal year 1972 in the regular District of Columbia Appropriation bill for 1972. [Permission to File Conference Report on H.R. 8190, Supplemental Appropriations, 1971, *Congressional Record-House*, May 20, 1971, page 16189]

When the report reached the House floor later that day, Chairman Natcher explained that "for the first time in over a year the Department of Transportation and the District of Columbia officials, in my opinion, are making a sincere effort to carry out the Highway Act of 1970 and the Highway Act of 1968." When his subcommittee began hearings in the next few weeks on FY 1972

appropriations, he and his colleagues wanted to “be in a position to bring back to this House a bill containing” the Metro funds.

Chairman Mahon thanked Chairman Natcher and tried to move on, but Representative Waldie wanted to clarify what Chairman Natcher had said:

I gathered that the subcommittee will be able to come back in the next 3 or 4 weeks with the appropriation that this bill denies for the completion or the continuation of the subway, depending upon the fulfillment of certain conditions, and I do not fully understand what those conditions are that must be fulfilled before that action could occur.

Chairman Natcher replied that “all we have ever said to the officials downtown is that the Highway Act of 1968 and the Highway Act of 1970 should be complied with.” The city was now completing the design report on the bridge and it would be submitted to the court. In addition, the city was preparing the contracts for the studies the 1970 required:

They are now, in my opinion, making a sincere effort to comply with the law, and they have taken the necessary steps which will bring about the appropriation of both of these amounts if they carry out the provisions of the 1968 and 1970 Highway Acts.

Representative Waldie asked if the steps taken thus far were “still insufficient.” Chairman Natcher replied:

The steps they have taken in the last 5 days and subsequent to the deletion of the \$34,178,000 by the House, leads me, as one member of the committee, to believe that they are now sincere and they are trying to comply with the law, and that is all they have to do.

Rephrasing his question, Representative Waldie asked:

At the present time does the gentleman believe they are attempting to comply but is not satisfied they have complied sufficiently that we can make an appropriation in this bill?

Chairman Natcher said:

The gentleman is correct.

In other words, if they continue as they have started in the last week they will put the Appropriations Committee in the position where only one thing can happen; and that is the recommendation that both amounts be approved.

Chairman Blatnik was the final speaker before the House adopted the conference report. (His comments were probably inserted into the record, not delivered on the floor.) He fully supported Chairman Natcher’s and the committee’s position on transportation in the District. “The position as expressed by our colleague is one of principle and upholds the actions taken by the Congress in the past.” The Public Works Committee had been “clear in their intent” regarding the District freeways. The District needed a balanced system, but freeways had to be part of that system.

Secretary Volpe was now making “what I consider an initial, but most significant forward thrust which, I do believe, will finally ‘get the show on the road.’” He and his committee colleagues would work toward that end. He commended Chairman Natcher and his subcommittee colleagues for their efforts to ensure “the laws of the land are carried out” and that “the deadlock, which gives [us] neither Metro nor highways [will] be broken.” [pages 16192-16193, 16194-16195]

During the exchange with Representative Waldie, according to the *Post*’s Irna Moore and Jack Eisen, Chairman Natcher said he expected his subcommittee to “begin hearings in the next few days” and hoped “to bring back to this House in the next three to four weeks” a bill to restore the subway funds. Stephen Green reported the same wording in the *Star* (“Natcher said he would begin holding hearings on the District budget next week and expected to bring a District appropriations bill before the House in three or four weeks”)

However, Chairman Natcher exercised his right to edit his comments in the *Congressional Record* to indicate that hearings would start in “a few weeks” and to omit the reference to “three or four weeks” for a bill to restore the funds. Although Chairman Natcher would not comment on the changes, a congressional source told Jack Eisen that the chairman had been “a bit over optimistic” in his off-the-cuff remarks. [Moore, Irna, and Eisen, Jack, “New Lag in Metro Forecast,” *The Washington Post and Times Herald*, May 25, 1971; Green, “Subway Block Is Removed,” *The Evening Star*, May 21, 1971]

President Nixon signed the Second Supplemental Appropriations Act, 1971, on May 25

(P.L. 92-18).

Trying to Move On

Although Chairman Natcher had edited his words in the record, reporters had heard them and included them in their articles about the vote. Chairman Natcher’s optimism about progress, they explained, stemmed from a private five-page letter he had received from Secretary Volpe. This letter apparently was the report Beggs had mentioned. The letter had not been made public, but in a News Analysis, the *Post*’s Irna Moore said “the transportation secretary apparently did not propose anything extraordinary and did not order immediate construction of the North Central Freeway”:

It was believed to say that a contract to restudy the North Central Freeway . . . would be signed and that a report would be sent to U.S. District Court saying the court’s order halting work on the Three Sisters Bridge . . . had been complied with.

Volpe might also have admitted, in the letter or orally, that his department has been guilty of some footdragging and that he promised to do better.

Whatever the letter said, it had been enough to prompt Chairman Natcher’s comment about “a sincere effort” to comply with the 1968 and 1970 Highway Acts.

Moore added that most Members of Congress “aren’t sure what the District was ordered to do in those highway acts.” For many members of Congress, she said, “what it all really came down to was a matter of saving face.” Chairman Natcher had said he would not ask the House to countenance the District’s noncompliance, but the narrower than expected vote on the Giaimo Amendment “must have been, as one congressional mixer of metaphors put it, both the handwriting on the wall and the ‘sound of 170 sets of footsteps.’”

It was, in short, a signal that Chairman Natcher might lose his next attempt to withhold the subway funds:

Natcher, by all accounts, is not a man who would like to stand on the House floor and watch his colleagues vote him down the next time.

Then there was Chairman Inouye, who had included the subway funds in his bill, but like his predecessor, had seen it deleted in conference:

Inouye kept a low profile during the negotiations [but] privately referred several times to the concept of “face,” and once pointed out that there was a vast difference between a headline that said “Natcher Gives In” and one reading “City Complies with Highway Law, Subway Funds Released.” [Moore, Irna, “Natcher on the Road to Metro Accord,” News Analysis, *The Washington Post and Times Herald*, May 23, 1971]

Chairman Inouye’s comment that the chance for releasing the funds was excellent also fueled the optimism. “I’d bet on it,” he said. “I’m very confident we’ll get back on the track very soon.” One anonymous House member said privately that Volpe’s letter “is letting Natcher off a hook he wanted to get off of.” [Moore, Irna, and Eisen, Jack, “Subway Money Pledged,” *The Washington Post and Times Herald*, May 21, 1971]

The *Post*’s editors were optimistic, too, but skeptical. An editorial observed that WMATA might soon have money to build the subway. “At least that’s how the wise men on Capitol Hill now read the tea leaves.” No one is quite sure what the basis for Chairman Natcher’s optimism is because “it hinges on a five-page report from the Secretary to the Subcommittee Chairman that hasn’t yet been shared with the public.” Chairman Natcher was known “as a man of his word” and Chairman Inouye “says chances for release of the Metro money in the coming weeks are excellent.” With the start of the new fiscal year just a few weeks ahead, this was “a climactic moment” in the long freeway/subway impasse, whatever the outcome:

The city and the administration have groveled to comply with years of congressional conditions and positions. Undoubtedly, we haven’t seen the end of the highway dispute – but we cannot afford the end of the Metro system. [“Metro: Believe it—Or Not?” *The Washington Post and Times Herald*, May 23, 1971]

The *Star*, too, was cautiously optimistic about an end to “this absurd impasse” since the end “was announced to the House on Thursday by no less an authority than the man responsible for withholding the funds, Representative Natcher.” However, before “anyone floats away on a

cloud of euphoria,” remember “it hasn’t happened yet.” Secretary Volpe’s letter had “obviously broken the ice, for which the secretary is to be strongly commended,” but he should not make the grave mistake of assuming “the ball game is won.” The editorial concluded:

The truth is that the administration, and to a lesser degree the city government, are largely responsible for having reduced the freeway program to a state of total confusion. It is within Volpe’s power to unravel the snarl if he will. [“Subway Release,” *The Evening Star*, May 22, 1971]

The caution proved to be justified when Chairman Natcher announced that hearings on the

FY 1972 District appropriations act could continue into August. As Eisen reported in his article about the editing of Chairman Natcher’s May 20 comments, the schedule “diluted” the optimism that followed the “three to four weeks” estimate on the House floor just 5 days earlier.

The delay also affected the Metro construction schedule:

Jackson Graham . . . said the construction schedule for Metro’s first 4½-mile section is so tight that every day’s delay in financing will bring a day’s delay in providing initial service.

It now appears, Graham said, that service now officially scheduled to begin in December, 1973, cannot now start until March, 1974, “at the most optimistic.” The entire 98-mile system is scheduled for completion in 1979. [Eisen, Jack, “New Lag in Metro Forecast,” *The Washington Post and Times Herald*, May 25, 1971]

District Highway Director Airis confirmed what Chairman Natcher had said on the House floor about the model of the Three Sisters Bridge. The Cement and Concrete Research Institute was building the 81-foot model in Skokie, Illinois, to test the safety of the single-span design the Commission of Fine Arts had approved. However, the test would have to be delayed. A May 22 *Star* report said:

While conceding that something had gone wrong, District and federal officials differed yesterday on just how serious it was.

District Highway Director Thomas F. Airis said that a section of the model had been knocked loose while being cast and that a recasting was required. But he termed this a “very minor thing,” which only caused a few days’ delay.

A U.S. Department of Transportation spokesman, while basically agreeing with Airis on what went wrong and saying it did not involve a flaw in the bridge’s design, said he understood the problem had caused a month’s delay. He said the model, originally to be finished in July, would not be ready until August. [Holmberg, David, “3 Sisters Model Awry,” *The Evening Star*, May 22, 1971]

(On June 5, the Natcher subcommittee rejected a request for \$9 million for the air-cushion system Secretary Volpe had mentioned he wanted to build in the median of the Dulles Access

Road. Representative Broyhill and other Virginia interests opposed the plan because it would be built where they wanted WMATA to build a Metro extension to Dulles International Airport. [“Volpe is Blocked on Transit Plan,” *The New York Times*, June 6, 1971]

On June 8, the District entered into a contract for the studies required by the 1970 Act of the North-Central Freeway, Northeast Freeway, and the North Leg and East leg of the Inner Loop. Airis said the contract called for the partnership of DeLeuw, Cather Associates and Harry Weese and Associates, Ltd., to review previous location and design studies, consider alternative routes and designs, and investigate possible related development (housing, commercial activities, parks, mass transportation, and other community facilities). The contract called for the report to be submitted in time for the District to meet the December 31 deadline imposed by the 1970 Act. [“D.C. Contracts for Restudy of Freeways,” *The Evening Star*, June 8, 1971]

Secretary Volpe sent a request to Congress on June 10 seeking authorization for a Federal guarantee of \$1.2 billion in revenue bonds as part of the plan to finance Metro:

We have thoroughly examined the various alternatives for long-term financing and find that the guarantee of obligations is the most feasible method.

Federal guarantees are particularly appropriate for the Metro system since the federal government is a substantial contributor of construction funds, and because it is the area’s largest employer it will be a substantial beneficiary of the system. [“Volpe Pushes Metro Bonds,” *The Metro Scene*, *The Evening Star*, June 11, 1971; Eisen, Jack, “Metro Bond Guarantee By U.S. Is Requested,” *The Washington Post and Times Herald*, June 11, 1971]

On June 17, WMATA marked the start of the first Metro project in Virginia. The project involved construction of the Rosslyn station, but the site was occupied by a parking lot that was still in use. Unable to conduct the ceremonial start of construction at the site, officials gathered two blocks away on land reserved for I-66. The ceremony brought anti-I-66 protesters to the site bearing signs such as I-66 IS THE ROUTE OF ALL EVIL and METRO YES! I-66 NO!

Representative Broyhill noted the protesters in his remarks by saying that such opposition was “the only threat” to creation of a road-and-rail transportation network. With about 350 spectators looking on, many wearing plastic “hard” hats, Secretary Volpe tried to deliver his 5-minute speech predicting that Metro would soon emerge from its financial and political difficulties, but he was frequently drowned out by jet airplanes flying to or from nearby Washington National Airport. At one point he said, “Somebody in the Federal Aviation Administration is going to catch heck.” He finished his remarks despite the overhead noise. The next and last speaker, Governor Holton, said that in view of the heat, he would forgo his speech.

Secretary Volpe, Governor Holton, and WMATA Chairman Sickles then pushed a dynamite detonator. Because it was not connected to anything, nothing happened except that a Metro official gave a hand signal to workers who opened the back door of two vans filled with 3,000 inflated balloons that drifted aloft as a symbolic groundbreaking. Construction of the Rosslyn Station would begin in a few days.

The event was one of several on Northern Virginia Transportation Day. The day also marked the opening of elevated pedestrian walkways in Rosslyn and the full implementation of the Shirley Highway Expressway. Many participants had arrived in Rosslyn on the new buses that the *Star* described as carpeted, air-conditioned, and with wider, comfortable foam seats. The new buses also had been used to transport State officials from Richmond. Thirty of the buses had begun operating on the expressway that week, with a total of 90 buses planned. [Eisen, Jack, "Va. Metro 'Start' Observed," *The Washington Post and Times Herald*, June 18, 1971; Brockett, Diane, "Metro's Start in Suburbs," *The Evening Star*, June 18, 1971]

(The opening of I-95 between the Baltimore and Capital Beltways had been delayed by what Maryland officials called a severe shortage of asphalt and difficulty in obtaining material for the overhead signs. On July 1, 1971, amid 90-degree heat near Beltsville, Governor Mandel cut the gold-and-black ribbon on the eight-lane, 21.7-mile I-95 link. The opening, he said, symbolized that Maryland was "embarking on a new course in transportation." Federal Highway Administrator Turner told the 300 or so people in attendance that Maryland now had the highest percentage of Interstate completion in the country. Of the planned 357 miles, 91 percent had been opened. State officials expected the new Interstate segment to reduce traffic on the Baltimore-Washington Parkway by about 35 percent and relieve jams on parallel U.S. Routes 1 and 29.)

The city governments of Baltimore and the District were uncertain about the routing of I-95 through their cities, prompting Turner to say, "Interstate 95 extensions into both cities must be completed, and soon, despite any present obstacles." State Highway Administrator Fisher agreed. "The full potential of this highway will not be reached until it is extended into Baltimore and into Washington."

In the absence of a link through the District, Maryland routed I-95 traffic bound for other destinations around the Capital Beltway to connect with I-95/Shirley Highway in Virginia. As the *Post* pointed out, "Curiously, the southbound motorist is confronted by a special 'Washington, I-95' exit as he reaches the Washington Beltway, but all the exit does is make a curve onto the Beltway."

As part of the new course that Governor Mandel mentioned, the Maryland Department of Transportation also began operations that day – the 12th State transportation department in the country. In a ceremony that morning at the department's headquarters, the Governor had called the new department the "most far-reaching, all-embracing transportation program in the country." [Associated Press, "Route 95 Link Due to Open by Mid-June," *The Evening Star*, April 25, 1971; Aschenbach, Joy, "Day for Transportation in Maryland," *The Evening Star*, July 2, 1971; Goldman, Ivan G., "I-95 Leg Opens to Connect D.C., Baltimore Beltways," *The Washington Post and Times Herald*, July 2, 1971)]

Trying to Break the Impasse

On May 26, President Nixon announced that he would appoint banker Henry K. Willard II, a Republican whose great-grandfather founded the Willard Hotel, to replace Democratic Councilman Daugherty, whose term had expired in February. The President also reappointed

former council members Margaret A. Haywood (Republican) and Joseph Yeldell (Democrat) to new 3-year terms. These appointments shifted the political balance to six Republicans and three Democrats, with Chairman Hahn and Willard, if confirmed by the Senate, the only white members.

During confirmation hearings before the Senate District Committee, Yeldell and Haywood favored District self government. Haywood said she would be “very happy to step aside as an appointed member in favor of an elected council.”

The 44-year old Willard, according to the *Star*, “startled the senators and audience alike” when he said he did not believe the District was “quite ready” for home rule or full voting representation in Congress.” In response to a question from Chairman Inouye, Willard thought the city would be ready for home rule “sometime in the decade of the ‘70s.” Evidence of readiness would come in the form of “a decrease in the crime rate, an increase in the tax base and a more firm local economy that could pay for itself and not continually turn to you gentlemen for additional financial help.” Chairman Inouye told him, that by those standards “we would have to deny home rule to New York City.”

The Senate confirmed the nominees on June 10. They took their oath of office on June 22. The city council established a new committee for Willard to head: an Environment and Business Development Committee. Chairman Hahn explained the role of the new committee. “The thrust of the new committee for some time will be mainly in environment, but when chances arise to use Mr. Willard’s expertise on business matters, mainly special, smaller problems, then we may refer some matters to his committee.”

In a *Star* profile of the new councilman, Willard described himself as a liberal Republican. “But politics don’t enter into the council job much, it’s more tied in with the localisms of collecting trash, of improving the schools. It’s hard to take a partisan stand on something like that.”

He was sensitive to the charge that he was a white Republican in a predominantly Democratic black city. He said, “Every segment of the community has to be represented on the council.” He wanted to be judged “by what I do,” not by labels.

He said his remarks about home rule had been taken out of context:

I’m not against home rule. I’m for it. It would be a sign that the city has reached maturity and can handle its own affairs. Home rule is an evolutionary thing. We have been gradually getting more control . . . with an elected school board and the non-voting delegate. But you have to remember that this city is a federal city with a strong federal interest. We will always have some checks and balances by the federal government, especially in the budget.

He said reaction to his comments during the confirmation hearing had been largely favorable. “I personally was quite amazed at the number of people, white and black, who have complimented me for ‘telling it like it is’ regarding home rule.” He regretted that the issue had

taken on “racial connotations . . . for most of the time the city has been without home rule it has had a white majority.”

During the confirmation period, he had supported the North-Central Freeway because of its role in reviving the downtown area. Now he admitted, “I haven’t really studied the freeway situation yet . . . but we have two interstate highways coming into the District and none from Maryland. That’s been a bone of contention for 20 years.” He promised to read the city’s report on the North-Central Freeway while trying to look at it “with a practical approach.” Basically, he favored a balanced transportation system “with a limited number of freeways and a fully operating Metro system.”

[“President Appoints Willard To D.C. Council, Renames 2,” *The Evening Star*, May 26, 1971; Angle, Martha, “D.C. Council Nominees Confirmed by Senate,” *The Evening Star*, June 10, 1971; “Willard Heads New Committee,” *The Metro Scene, The Evening Star*, June 16, 1971; Pike, David, “New Councilman Willard Offers Surprises,” *The Sunday Star*, July 4, 1971]

Secretary Volpe began the new fiscal year by issuing a statement on July 1:

As we begin a new fiscal year, I want to state in the clearest possible terms the position of the Department of Transportation with respect to compliance with those provisions of the Federal-Aid Highway Acts of 1968 and 1970 which relate to the highway program in the District of Columbia.

Both the Department of Transportation and the District of Columbia are in compliance to the fullest extent possible with these statutes. Specifically, every project specified in the 1968 and 1970 Federal-Aid Highway Acts is under construction, design, or study, fully in keeping with the Congressional Mandate. In the case of the Three Sisters Bridge, further construction has been enjoined by the courts. This matter is now on appeal to the Court of Appeals and the Court has been asked to expedite the proceedings. As soon as it is legally permissible to do so, the District of Columbia Government, with Department of Transportation aid, will resume work on the project.

A high ranking but anonymous Transportation Department official summed up the nature of the problem by saying, “I sure hope we don’t end up with just a lot of holes in the ground around Washington.” [Kneece, Jack, “Natcher Highway Terms Being Met, Volpe Says,” *The Evening Star*, July 1, 1971]

As Secretary Volpe’s statement indicated, the Justice Department had asked the full U.S. Court of Appeals to speed its hearing on the three-judge panel’s decision and issue a finding in the Three Sisters Bridge case. This action, initiated by Secretary Volpe, was thought to demonstrate compliance with his five-page letter to Chairman Natcher. The letter was still secret, but Jack Eisen reported that he had learned the letter contained “nothing dramatic.” It included, Eisen reported, information about the request to the court and stated that the deadline of December 31 would be met for a report to Congress on the North-Central Freeway.

Maryland and Virginia suburban jurisdictions made their half-year contributions to WMATA, totaling \$29.3 million. With these contributions and \$58.7 million in available matching funds, General Graham said the funds would last about 2 months. [Eisen, Jack, "Agency Prods Court on 3 Sisters Bridge," *The Washington Post and Times Herald*, July 3, 1971]

In addition, during meetings in May, Secretary Volpe's talks with Interior Secretary Morton resulted in an agreement on the South Leg of the Inner Loop Freeway from the Lincoln Memorial to the Tidal Basin. They agreed, subject to public hearings planned for the fall, on a six-lane section of the South Leg to connect with the Southwest Freeway on the District side of the 14th Street Bridge. A 1,000-foot tunnel would be constructed under the Lincoln Memorial grounds south of the memorial. It would connect with a depressed roadway leading to a second 1,000-foot tunnel under the north edge of the Tidal Basin. A surface freeway would connect with the Southwest Freeway.

The meeting took place before Secretary Volpe sent his five-page letter to Chairman Natcher. The letter, according to sources, indicated that NPS Director Hartzog concurred in the decision.

Whether the proposal was consistent with Section 4(f) of the Department of Transportation Act remained to be seen. ["Volpe, Morton in Accord on Tunnel Project," *The Evening Star*, July 6, 1971; Eisen, Jack, "U.S. Officials Agree on Basin Tunnels," *The Washington Post and Times Herald*, July 6, 1971]

The *Post* editors saw "nothing new" in the agreement:

The idea dates back to more than two decades ago when, as legend has it, some bright planner, in the flush of excitement over the new blessings of automobility (and before anyone seriously thought of a subway or Metro) drew a circle around the White House and called it "the inner loop freeway."

Over the years since then, "the battle seemed distant to most of us. We did not really believe 'they would do this to us.'" Now, the two Secretaries had agreed on how they would do it:

The engineers who insist that the freeway is essential to move some 90,000 to 100,000 vehicles a day which would otherwise clog the existing roads along this route, have promised to keep lighting and signs "below the eye level of the park visitors" and to keep the concrete spaghetti of road junctions and ramps to a minimum.

Yet, six-lane tunnel entrances are pretty conspicuous holes, a freeway trench is a freeway trench, 100,000 automobiles cause a good bit of air pollution and the whole thing appalls us.

Many other people, the *Post* added, were likely to be upset. "The Mall, after all, was not meant to be a traffic 'connector.'" ["A Trench Is a Trench Is a . . ." *The Washington Post and Times Herald*, July 11, 1971]

Star coverage of the agreement noted a new problem, one that District freeway critics had been following closely. On March 3, 1971, the Supreme Court had ruled in the case involving

construction of I-40 through Overton Park in Memphis, Tennessee. The decision turned on Section 4(f) of the Department of Transportation Act of 1966. Justice Thurgood Marshall, who wrote the opinion, said that Section 4(f) "is a plain and explicit bar to the use of federal funds for construction of highways through parks – only the most unusual situations are exempted." The court recognized the place of cost, directness of route, and community disruption in highway routing, but the existence of the statute "indicates that protection of parkland was to be given paramount importance."

Although Section 4(f) did not require a formal, documented finding of a decision to route projects through a protected resource, the Supreme Court ruled that the District Court, in reconsidering the matter, may "require some explanation in order to determine if the Secretary acted within the scope of his authority and if the Secretary's action was justified under the applicable standard."

Justice Marshall's strongly worded decision was a turning point in how FHWA and the State highway/transportation departments considered impacts on the resources covered by Section 4(f). To use a Section 4(f) resource, Federal officials would have to find that alternatives to doing so presented unique problems or unusual factors or that the cost, environmental impacts, or community disruption would reach extraordinary magnitude. Any potential adverse impacts on a Section 4(f) resource, as well as possible uses, must be formally documented during review of the project under NEPA. (The Overton Park issue was resolved when the park routing was abandoned, with I-40 routed along the northern beltway around Memphis.)

Hearings on District Appropriations, 1972

Mayor Washington, Deputy Mayor Watt, City Council Chairman Hahn, and other top District officials appeared before the Natcher subcommittee on June 7, 1971, at the start of hearings on the District of Columbia appropriations for FY 1972. Although the hearings would cover all aspects of the District budget, Chairman Natcher quickly focused on transportation issues. If Secretary Volpe and District officials carried out the actions promised in the Secretary's letter in the next few weeks, Chairman Natcher said he would recommend release of the District's matching funds for Metro for FYs 1971 and 1972. "I hope that the rapid rail transit-freeway impasse is finally over."

He reiterated his long support for a balanced transportation system, but the provisions of the Federal-Aid Highway Acts of 1968 and 1970 were "the law and must be complied with." He recalled the halt of construction on the Three Sisters Bridge and the penalties the District was paying to the contractor – \$500 a day, \$15,000 a month – "which I believe is carried on the books as the amount due for rental of equipment now on the job and for the protection of the piers while the design hearing results are being submitted back to the court."

He pointed out that the suit blocking construction had been filed in 1969 "and with this being June 1971, more than enough time has expired to have this matter settled." If the commitments in Secretary Volpe's letter were not carried out, "and both systems do not proceed together, I do not intend to recommend construction funds for our rapid rail transit system in the bill for fiscal year 1972."

Chairman Natcher expressed his longstanding skepticism about the cost of Metro. “I believe that this 98-mile system will cost at least \$4 billion and may go as high as \$5 billion.” He added that “the bonds provided for under the 1969 Authorization Act for rapid rail transit cannot be sold due to the fact that the brokers and the bankers will not buy the \$835 million in bonds which are to be retired out of the fare box.” The brokers and bankers wanted the Federal Government to back the bonds and “a bill is now being prepared which will provide for the sale of \$1,200 million worth of bonds to be guaranteed by the Federal Government.” Such a guarantee, “of course, would establish quite a precedent.” [District of Columbia Appropriations for 1972, Hearings, Subcommittee of the Committee on Appropriations, U.S. House of Representatives, 92nd Congress, 1st Session, part 1, 1971, pages 2-3]

On July 9, in a long statement when Airis appeared before the subcommittee to discuss his department’s budget, Chairman Natcher provided a history lesson on a balanced transportation system for the District. He began:

Mr. Airis, I was a member of this subcommittee in 1955, and made the recommendations that the funds for the District of Columbia’s share for the Mass Transportation Survey be appropriated. As you well know . . . under the Mass Transportation Survey, which was presented to President Eisenhower in 1959 I believe, recommendations were made for a rapid rail transit system, for a freeway system, and for an express bus system which would be used in conjunction with both freeways and rapid rail transit.

He went on to discuss Section 23 of the Federal-Aid Highway Act of 1969 and Section 129 of the 1970 Act, as well as the status of the Three Sisters Bridge and problems with the Potomac River Freeway. He absolved Airis:

Certainly you, as an engineer and as the Director of the Department, cannot be criticized at all. I think you have carried out your duties.

That said, the question of compliance with the 1968 and 1970 Highway Acts must be resolved. “We no longer should have an impasse as far as the enforcement of these two laws are concerned”:

Mr. Airis, as you have heard me say, I will never, as long as I am a Member of Congress, stand on the floor of the House and ask the House of Representatives to repudiate the Public Works Committees of the House and the Senate, and the Highway Acts of 1968 and 1970. I will never do it, Mr. Airis. I think it ought to be resolved. I think we are nearer a solution. I am hoping that we can include in the bill the \$34.178 million that was deleted from the 1971 budget, and also from the 1971 supplemental.

I am also hopeful, Mr. Airis, that we can include in this bill the \$38,308 million, that is being requested for the fiscal year 1972 construction program. [District of Columbia Appropriations for 1972, Hearings before the Subcommittee of the Committee on Appropriations, U.S. House of Representatives, 92nd Congress, 2^d Session, 1971, Part 2, pages 723-725]

Airis, in his statement to the subcommittee, summarized the status of Interstate freeways in the District:

In the District . . . we have 10.6 miles of the total 29.5 miles Interstate System completed and in use; namely, the Roosevelt Bridge and a section of the Potomac River Freeway

(I-66) including its connecting E Street Expressway, the 14th Street Bridges (I-95) except the new center bridge; the Southwest Freeway (I-95) including its northbound 12th Street Expressway and the soon to be opened southbound 9th Street Expressway; the Southeast Freeway (I-695) to the completed 11th Street Bridges over the Anacostia River and the Anacostia Freeway (I-295).

I should mention that the 11th Street Bridges were opened for a direct connection between the Anacostia Freeway and the Southeast Freeway last Christmas. It is the last element of the freeway system that has been opened to traffic here

Approximately 2.6 miles are under construction. These include the center leg of the Inner Loop to New York Avenue, although we have yet to finalize the air-rights development details with the Redevelopment Land Agency for the section between H and K Streets. The remainder is scheduled for opening late in 1972. The Southeast Freeway east of the 11th Street Bridges to Barney Circle is under construction and scheduled for completion in November 1972. These two elements should be open for use in 1972.

That brought Airis to the Three Sisters Bridge. Citing the order of the U.S. District Court on August 7, 1970, he said the city had held the required design public hearings in December 1970. The hearings resulted in a March 31 request to the Department of Transportation:

Design approval for an I-266 bridge of the alignment, geometrics, and shape depicted in the three-span alternate presented at the design public hearing.

The request included supporting information demonstrating that the design, a prestressed concrete box girder bridge, would meet “the existing and future traffic needs relative to durability and economy of maintenance.”

Airis continued:

Technically, the Potomac River Freeway along the Georgetown waterfront, and the east leg of the Inner Loop up to Bladensburg Road, are both in the design stage, but work is slowed pending developments. No construction has started.

The remainder of the system, i.e., the north leg of the Inner Loop (I-66), the northeast-north central (I-70S and I-95) connections, and the extreme upper end of the east leg require additional study as called for in the 1970 Federal-Aid Highway Act.

(Airis did not mention the South Leg of the Inner Loop Freeway.)

He added that the system he had described was 29 miles long. In February 1970, the city council had approved a system of only 24½ miles:

The difference, of course, is a very small amount of mileage, but the main difference is the means of getting access to the north. The [city council-approved] system indicates that traffic should go up the Baltimore-Washington Parkway general alignment and then out to the Beltway

Now the latest recommendation in 1970 did not contain a complete south leg The original south leg contemplated in the 1968 act and all prior planning was for a full connection between the Potomac River Freeway and the Southwest Freeway.

The City Council, the Mayor, and the Department of Transportation did not include the full length. In other words, the great difference was that they brought the traffic up to surface on the Independence Avenue roadways existing at the present time, and the concept was to continue that traffic on over the Southwest Freeway, on the surface of the park.

The NPS “takes violent exception to this,” Airis said, but the recent agreement between Secretary Volpe and Secretary Morton “follows fairly closely the original concept with the full facility, in two tunnels and a depressed section.”

The I-95 connection had not been worked out via the Baltimore-Washington Parkway. “Nothing has been finalized there. This is just a line on the map.” [pages 760-763]

When WMATA appeared before the subcommittee on July 23, Chairman Sickles took the lead. Chairman Natcher questioned Sickles and General Graham about the cost estimate of \$2,980,200,000 for the 98-mile system. When they confirmed that estimate, he told them:

I have never believed that the 98-mile system could be constructed for the original figure of \$2.5 billion. I do not believe today that you will be able to construct it for \$2,980,200,000 Certainly I am not an engineer, but based on the costs of other rapid rail transit systems throughout the United States and abroad, I still am of the opinion that this system will cost between \$4 and \$5 billion.

He urged Chairman Sickles and General Graham to keep the public informed as costs increased.

They discussed the Nixon Administration proposal that the Federal Government guarantee the Metro construction bonds. Chairman Natcher summarized the situation:

The brokers and bankers would not purchase the bonds since the bonds were to be retired out of the fare box or out of the income derived from the rapid rail transit system. Now you are confronted with the problem of having the bonds guaranteed by the Federal Government.

Maryland’s two Senators, Beall and Mathias, had introduced the bill as S. 2297, for a guarantee of \$1.2 billion in bonds, but a comparable bill had not yet been introduced in the House. The

Senate had not held hearings on the bill but Chairman Sickles said that WMATA “and the entire community is in favor of it and we are going to make every effort that we can to pass the legislation.”

Chairman Natcher was concerned that the bill, if enacted, would establish a precedent. When Executive Officer and Comptroller Lowe suggested that a guarantee under the Medical Facilities and Construction Act of 1970 had provided a similar bond guarantee, Chairman Natcher was skeptical. “You would have to stretch your imagination” to compare the two bills. He continued:

Unless the matter concerning freeways and rapid rail transit is resolved, in my opinion, you may have some difficulty with this legislation. Personally, as one member of the committee, I hope that . . . you have no trouble with it. You are asking the House and the Senate now to go a long way with this type of legislation. It is imperative that this impasse that we have before us be resolved.

Regarding the impasse, he said:

We do believe on this committee, Mr. Sickles, that the Federal-Aid Highway Acts of 1968 and 1970 are the law and they must be complied with. If we don't take that position, Mr. Sickles, we then repudiate the House of Representatives, the Senate and the President of the United States. I hope that the impasse that we have now is resolved and is resolved quickly for the best interests of our Nation's Capital

That is the position we are in today and I am hoping that before we report this bill something is done that places us in a position on this committee where we can approve the amounts that are before the committee

He explained that his subcommittee had never engaged in subterfuge. The subcommittee supported the freeways and Metro:

We even had proposals that you know about as far as one of the sections of the freeway system, which suggested that it go through a portion of the Arboretum. You never heard of anything like that in your life. It just brought forth thousands of letters from people and it was not necessary at all. We have had a number of situations take place along that line.

He added that if recent efforts continued, “we will solve it and we will have no further trouble.”

Representative Giaimo said he had been “talking to some people from the administration just this week who are very much interested in this and they were painting a gloomy picture about what happens if we don't get some fast action.” He acknowledged that the District was “tied up with the overall budget” and added that “I don't know what the timetable is on that because of the revenue problems.” He asked Chairman Sickles if he wanted to comment:

Mr. Sickles. It is a fact of life that we have to face; it is going to hold us up. Even the normal process won't be fast enough to keep us moving.

Mr. Giaimo. Is it something that you can live with?

Mr. Graham. If we knew when this thing would be resolved, when we would have these missing appropriations, we could better answer the question. At this moment we don't see action on these funds for October, final action. Then immediately this means a 4-month delay in meeting our commitments on train operations. The schedule is so tight that at this moment we see no practical way of making up that difference, which means we don't carry out commitments to the eight local governments in exchange for their contributions.

Mr. Sickles. It is something we have to live with. It will have an impact and delay the time of services available and increase the costs.

When Representative Giaimo asked about the cost estimate, General Graham assured him, "We have never expressed any reservations that we can complete it for \$3 billion." The estimate included \$855 million in unknown escalation costs. He added, "If we resolve this funding delay, we still feel that we can build it for \$3 billion."

Chairman Sickles replied as well:

I think this issue was raised once before by the chairman before you got here. I think this may be the first time that I heard it directly in person. I think that one of the statements of the chairman ought to be at least responded to. I think that the inference was that we have a duty to tell the truth and that we have a duty to share our information with the community and with the Congress. I think that you should allow there is no larceny in our hearts; we are just trying to do the job that we are required to do by the compact. We have done just the best possible job that we can in making these estimates.

Representative Giaimo commented, "As you know, I have heard all kinds of figures on this."

Chairman Sickles replied that, "We don't have the luxury of saying anything but what the technicians have come up with and hope they are realistic." He added:

If we were to have major labor problems or major community problems or any of these kinds that cannot be predicted, it would be realistic to assume that it would have an impact on our estimate. [District of Columbia Appropriations for 1972, Hearings before the Subcommittee of the Committee of Appropriations, U.S. House of Representatives, 92nd Congress, 2d Session, Part 3, 1971, pages 124-135]

As in the past, the hearings took place in executive sessions without reporters in the room. The report on the hearings would not be released until September.

The Ghost Bridge

On Sunday, July 18, reporter Jack Kneece published a lengthy front-page article in the *Star*, "The Ghost Bridge – 3 Sisters – Dispute Without End." He began with the original legend:

An ancient Indian legend has it that three Indian sisters drowned in the Potomac River and soon afterward three big chunks sprang up where they drowned.

There are now more ghostly remnants near that place in the river – steel pilings for the piers of the proposed Three Sisters Bridge. Already the pilings have a delicate patina of rust and have become a favorite resting place for sea gulls.

The piers were, Kneece wrote, “symbols of one of the most monumental bureaucratic entanglements in the history of the area” and they “could mark the demise of Washington’s fledgling subway system.” The controversy was “so convoluted that even Agatha Christie might have trouble tying up a smooth denouement.”

A Hill committee staffer assured Kneece that “the real reasons for all of this delay and controversy” were not clear from the daily headlines of “Natcher Withholds Subway Funds.” Satisfying Chairman Natcher was the only way the District’s matching share for Metro construction would be released – and the Three Sisters Bridge was the “primary roadblock” to that goal.

When the bridge was proposed in the 1960s, “it became a fashionable cause celebre among the Georgetown cocktail party set” before spilling across “a broad spectrum of society.” It was “a sinister threat to the ecology (all of that pollution from all of those automobiles)” as well as an “an eyesore” that would “deface such a charming area on the very fringe of Georgetown.” It would “block the morning sun from the C&O Canal towpath” and weren’t there enough bridges already? “Where would all of this highway and freeway madness end?” And, “Would the United States eventually topple because it was paved from coast to coast?”

Highway planners countered that the site was the most logical location and that their exhaustive studies demonstrated that there were no “feasible alternatives” (Kneece advised readers to remember that phrase). The “smidgeon of parkland” the bridge would take was insignificant compared with the benefits of the bridge. “For a time it appeared that the cause had lost its fashionableness.”

Kneece traced the battle through the courts and Congress. Judge Sirica had issued the most recent ruling:

After 10 days of hearings, Sirica enjoined construction of the bridge and, on August 3, ordered design hearings on environmental and other issues. The bridge was still on – sort of. Sirica also asked Federal Highway Administrator Frank C. Turner to certify the structural safety of the bridge – a graceful, massive, cantilevered span without a center support.

The citizen groups appealed a portion of the decision and the Department of Transportation appealed as well. The U.S. Court of Appeals had not yet scheduled a hearing.

According to a congressional source, members of Chairman Natcher’s subcommittee were “disgusted at the backbiting and ineffectuality among four sets of government attorneys working on the Three Sisters litigation.” Attorneys for FHWA, the Department of Transportation, the

Justice Department, and the District corporation counsel “reportedly are in discord” in contrast to “the smooth and well-oiled job done by the prestigious law firm of Covington and Burling, retained by bridge opponents.”

The scale model being built to test the safety of the bridge, according to an engineer employed on Capitol Hill, was “a primary cause of delay” and “a useless charade.” German and Japanese engineers, he told Kneece, considered the model “a big laugh” that would not provide any useful data. Enough data on similar bridges around the world was available to certify it a safe design.

Another problem was the relationship between Chairman Natcher and Secretary Volpe. A Capitol Hill source told Kneece that Chairman Natcher “feels that Volpe has been dishonest about the bridge and other highway projects from the beginning.” Publicly, Chairman Natcher appeared “somewhat mollified” by Secretary Volpe’s five-page letter, but actually he was “bitterly disappointed” and “found some parts of the letter to be either untrue, exaggerated or antagonistic to congressional authority.”

The letter had still not been made public, but Kneece had seen a preliminary draft that included the following:

I want also to convey to you my genuine concern about the financial health of Metro, Washington’s new rapid rail transit system. As you know, the Department of Transportation is custodian of the Federal contribution to Metro construction

Accordingly, my clear responsibility to the Congress is to see that the already substantial Federal investment in Metro is fully protected It is clear that Metro faces an imminent financial crisis unless additional monies are made available to it in the very near future.

The Washington Metropolitan Area Transit Authority sent [a] letter The letter and its supporting figures indicate unequivocally that “at this time, all available funds, including those for prior years, have been obligated or committed.” This means that, unless more funds are made available to it immediately, Metro will have to place a moratorium on further contract-letting and suffer serious delays as a result.

This might well be a critical setback. First of all, such delays would bring with them sharply increased construction costs well beyond the escalation already experienced.

Second, and most important, any interruption in the construction schedule at this point would seriously impair investor confidence in the revenue bonds which Metro must sell in order to complete its capital funding program

The import of all this is unmistakable: Metro and all of the money invested in it are now in jeopardy.

This message of doom was in contrast to a May 12 statement by WMATA controller Lowe that “we’re not out of business by any means,” with \$499 million remaining. More recently he had said that Metro had only \$18 million remaining in working capital.

The preliminary draft of Secretary Volpe's letter had described the plan for the Potomac River Freeway, including removal of the elevated Whitehurst Freeway, a concept not covered by Section 23 of the 1968 Act. The plan, Secretary Volpe's draft said, "would permit the immediate demolition of the Whitehurst Freeway and the construction of a facility which would give an unobstructed view of the Potomac River to Georgetown residents and visitors, and it would permit the recreational or other appropriate development of the entire area between the C&O Canal and the river. Initial reactions to the plan from both the Interior Department and the D.C. Government officials have been favorable." Kneece added:

Realizing that he was treading on eggshells in suggesting an idea that would require rewriting of a federal act, Volpe added almost as a not-my-will-but-thine-be-done afterthought that he was merely making the "proposal."

Secretaries Volpe and Morton were "aware of the controversy sure to erupt" as a result of their Georgetown proposal, "particularly among congressmen wedded to the grade-level approach that would leave the Whitehurst Freeway standing." They also realized that their proposal meant another round of design would be needed, and experience suggested that "could become a forum for disruption."

Kneece explained that the present "morass" had many causes "depending on to whom one talks." For example, while Secretary Volpe waited for Judge Bazelon "to get off the dime," some of the Secretary's "bold young attorneys . . . have whispered that Volpe could take unilateral action by simply notifying the court that work would begin on some parts of the pier construction while the court is making up its mind on the legal issues." The result would be a contempt of court citation, an order allowing limited construction, or a speed up of court action.

The Supreme Court's ruling in the Overland Park case was "sure to reverberate like a tuning fork throughout the U.S. court system much like civil rights legislation did in the 1950s." As a result, attorneys on both sides of the Three Sisters Bridge case expected it to end up in the Supreme Court. The court would have to determine if Secretary Volpe had adequately explored all "feasible and prudent" alternatives to the taking of parkland on both sides of the Potomac River.

Kneece also discussed the safety issue:

Engineers say that the 90 percent of this bridge's bulk is merely to support itself, with remaining percentage to support traffic. [sic] But engineers agree that the single-span bridge design is rapidly gaining popularity around the globe because of its complete absence of superstructure.

However, at one point in court hearings on the design Turner and other highway officials entrapped themselves (whether by design or inadvertently is still subject to debate – even within DOT) as they admitted that they were unsure of the safety of the design.

Some said that Turner was trapped only after bridge opponents obtained a confidential memorandum in which he stated:

We are still concerned that the combination of the adverse geometry of the superstructure, the unconventional design details, the extreme lack of design experience of a structure of this type and the complete absence of this particular construction experience in this country make the undertaking extremely hazardous and fraught with danger. To the best of our knowledge, very little has been accomplished to alleviate this concern.

Observers debated whether Turner “may have deliberately provided opponents with ammunition” because he favored a more conventional steel girder structure with a center support in the middle of the river” or “was merely aware that the memo was in the possession of the ‘enemy’ and therefore he simply swallowed his medicine.” Secretary Volpe reportedly believed in the latter theory.

Director Airis had recently asked the Department of Transportation “for permission to begin limited work” because he was satisfied with the current design. He also was frustrated that the construction season was passing without any action on the bridge.

Capitol Hill sources told Kneece that personality factors were involved in the impasse:

They said Volpe – and particularly some members of his staff – have antagonized congressmen on numerous occasions because of their parochial approach and heavy handed attempts at behind the scenes maneuvering. “They still act as if Volpe were governor of Massachusetts and dealing with a state legislature,” said one Capitol Hill committee employe [sic]. “When he (Volpe) agreed at one point to adhere to the plans for the Potomac River Freeway as outlined in the 1968 Highway Act, one of his aides called up and said, ‘Well, we did you a favor so now you owe us one,’” said sources. “We pointed out to them that they merely were following the law and we didn’t owe them a damned thing.”

Volpe’s attempts to bypass Congress on a number of matters – some preceded by telephone calls to key congressman only hours before announcement and ranging from independent release of Metro funds to construction of a tracked air cushion vehicle – rubbed many congressmen the wrong way.

Kneece acknowledged that part of the antagonism resulted from the interaction of a Republican Administration with a Congress controlled by Democrats. “Also there is [a] feeling by many congressmen of every affiliation that Congress has lost the initiative to federal agencies on new and innovative legislation.”

In conclusion, Kneece asked, when will “the Three Sisters, the freeways, Natcher, Volpe, the courts, and the various agencies live happily ever afterwards with construction humming away on all fronts?” He replied to his question: “The answer to that is depressing.” Congress had “grown steadily more impatient with delays,” as well as the reasons for the delays (“all such reasons ring hollow”). This impatience was reflected in the vote earlier in the year with unexpectedly close vote on the failed Giaimo Amendment:

Meanwhile, as all of these factors are working their sluggish way, the rust on the steel pilings grows deeper, and the sea gulls are becoming quite used to perching there and looking over those three chunks of granite.

Maybe the whole thing is part of an ancient Indian curse. [Kneece, Jack, "The Ghost Bridge – 3 Sisters – Dispute Without End," *The Sunday Star*, July 18, 1971]

On Appeal

The U.S. Court of Appeals advised attorneys that it would hear arguments on the Three Sisters Bridge case on Thursday, July 22. Sources predicted a ruling sometime in the winter.

Kneece, writing about the scheduled hearing, added:

In a related development, it was learned that Transportation Secretary John Volpe met with key congressional leaders at a private luncheon Thursday in the Rayburn House Office Building. The meeting – reportedly a "stormy session" – was an attempt to reach accord on the four-year-old impasse, which now threatens the District's fledgling subway system.

The meeting included Chairman Natcher and Representative Bow of the District appropriations subcommittee and Representative Harsha of the Public Works Committee. According to sources, "Natcher was very subdued" during the luncheon, but Representatives Bow and Harsha "were demanding that something be done to remove obstacles to the bridge-subway impasse." They "reportedly were the most outspoken against reasons for the delay," although sources would not tell Kneece what their arguments had been:

However, some Capitol Hill sources did say that more and more congressmen are becoming disenchanted with Natcher's hostage tactics on the issue. Natcher, who was supported on the issue earlier this year by a 20-vote margin in a floor vote, reportedly is concerned that should the issue reach the floor again, he may have difficulty in maintaining that support.

Officials had scheduled another meeting for later in the week. [Kneece, Jack, "Three Sisters Bridge Case Hearing Slated Thursday," *The Evening Star*, July 19, 1971]

On the day of the hearing, Secretary Volpe told reporters that resolution of the Three Sisters Bridge issue was the only obstacle to congressional action to release the Metro funds.

During the 2-hour hearing before a three-judge panel (Judges Bazelon, MacKinnon, and Charles Fahy) of the U.S. Court of Appeals, government attorneys argued for the lifting of the injunction on construction. They argued that whatever design was finally used, it could be erected on the piers already underway. Safety studies would be completed soon and the results known in 2 months, but there was no reason to prevent construction of the piers to resume.

Owen, the opposing attorney, contended that the piers were suitable only for a single-span bridge and that proceeding now would be "inappropriate." The *Post* reported:

Owen argued that the federal Department of Transportation, in its haste to satisfy Natcher's demands, illegally approved construction of the Three Sisters Bridge in the summer of 1969. Owen said the Department failed to determine whether the bridge was part of a comprehensive transportation plan for the Washington area, failed to investigate alternative bridge locations that might do less damage to parkland and allowed the political pressure from Natcher to influence its decisions. [Scharfenberg, Kirk, "U.S. Requests End of 3 Sisters Halt," *The Washington Post and Times Herald*, July 23, 1971]

On July 14, the House approved, 401-12, the Department of Transportation and Related Agencies Appropriations Act, 1972. It included an advance appropriation of \$174.3 million in FY 1973 Federal funds for Metro construction. The Senate approved its version of the bill, 90-0, on July 22, again with an advance appropriation of \$174.3 million for Metro construction in

FY 1973. Congress completed work on the legislation on August 2, and President Nixon approved it on August 10 (P.L. 92-74). The legislation brought the total Federal contribution for Metro to \$690 million. However, \$139 million of that amount could not be spent until the District of Columbia was able to provide its matching share. ["\$174.3 Million Voted by Senate for Subway," *The Evening Star*, July 23, 1971]

On July 25, *The Sunday Star* ran a lengthy feature editorial, "Natcher, Volpe and the D.C. Subway Snarl." It began:

Just two days ago – for the fifth time in little more than a year – the heads of Washington's subway agency appeared before Representative William H. Natcher's House Appropriations subcommittee to urge the release of District of Columbia subway funds which have been held up to exert pressure for progress on the city's log-jammed freeway program.

Previous testimony had been unsuccessful, but "an affirmative response now is vital." WMATA had committed virtually all usable funds for construction and, unless Chairman Natcher released the District matching funds to free the remaining funds, "a construction delay will be inevitable." Such a setback "could trigger other threats to the entire subway program, undermining years of productive regional effort."

Given the uncertainty about Chairman Natcher's pending decision, "President Nixon should step up his own efforts to seek a break in the impasse." Those who think that presidential intervention in what seemed to be a local transportation issue "are out of touch with how the Nation's capital operates":

Local officials are by this time only peripherally involved. The main bout has become essentially a power struggle between the legislative and executive branches of the federal government.

President Nixon's intervention in August 1969 had helped move Metro along despite what "appeared to be an irreconcilable conflict" at the time.

At this point, the freeway program “is entwined in an almost unbelievably complex snarl of engineering, legal, city planning and political arguments.” But it all boiled down to one project, namely the Three Sisters Bridge, and “a single political question: Is the Nixon administration, as represented by Transportation Secretary John A. Volpe, making every effort that it can make to expedite the Three Sisters Bridge, in view of Congress’ explicit edict that it be built?” Given years of “non-performance . . . there is a legitimate cause” for skepticism on efforts to advance the bridge and other pending freeways.

Although the focus was always on Chairman Natcher, the editors pointed out that “whether anyone likes it or not, Natcher’s position steadfastly has been upheld by majority votes in the House.” Thus, blaming the impasse on “one man’s recalcitrance – as frequently is done – is therefore both wrong and foolish.”

In view of several recent actions, perhaps the impasse was not “a hopeless standoff.” First, Chairman Natcher had made an “extremely conciliatory statement” during the May 20 debate on District appropriations, apparently in response to Secretary Volpe’s still-secret five-page letter. The letter, at least based on the draft obtained by reporters, did not contain “much new.”

Although Chairman Natcher continued his “customary silence” on his thinking since then, “congressional sources say his floor statement was intended more to encourage a positive response from Volpe than to reflect much real satisfaction with anything accomplished.”

Second, Secretary Volpe’s July 1 statement indicated that his power was clouded by court restraints. Nevertheless, he pledged to press ahead with the Three Sisters Bridge “as soon as it is legally permissible to do so.”

Third, the government had returned to the U.S. Court of Appeals panel to argue for resuming construction of the piers.

These events were “no doubt . . . less conclusive than the types of action Natcher wants.” They were, however, encouraging at a time when there remains “a great deal of doubt and suspicion on Capitol Hill as to whether Volpe has done all that he could do to satisfy the injunctive requirements.”

Issues remained to be resolved, including the safety question about the design of the single-span Three Sisters Bridge, but the editors hoped the court would allow construction of the piers to resume:

It is not likely that Natcher would – or politically could – sustain a position of demanding illegal actions of any sort from the administration when the question of granting the hostages funds comes up for a vote. But the court is obligated to clarify the law as expeditiously as possible, and Volpe is obligated – both now and later – to comply with it fully.

The accompanying editorial cartoon by William S. Garner showed President Nixon, arms folded, looking down on the Capitol, with subway cars snarled on one side of the Capitol Dome, cars

scrambled on the other side and the dome itself entrapped in bands of freeways and subways. The cartoon was titled: "Gordian Knot."

On July 30, the Coalition for Clean Air released a January 1971 report that it said the District had suppressed. The report involved conditions along the Anacostia Freeway near the 11th Street Bridge that appeared to be similar to conditions likely at the site of the Three Sisters Bridge. The report stated that "the levels of (carbon monoxide) are high at all rush-hour periods, but when congestion forces periods of idle engine-running by rows of cars, the emissions become undesirable." Carbon monoxide, even 100 feet from the freeway during average winds, "constituted a dangerous situation." It concluded that, "This limited study . . . shows the environmental inadvisability of congestion traffic patterns at the (location) tested."

James E. Clark of the highway department denied suppressing the report. He said the report simply showed that pollution levels are less when roads were not congested:

He said the department believes the only way to reduce automobile pollution significantly is through the development of pollution-free cars.

The coalition wrote to Secretary Volpe calling on him to order a detailed study of the health impacts of the Three Sisters Bridge. [Scharfenberg, Kirk, "Study Cites Danger of Fumes if 3 Sisters Bridge is Built," *The Washington Post and Times Herald*, July 30, 1971]

As August 1971 began, Metro ran out of money for additional work. WMATA had enough funds only to pay about \$270 million for ongoing construction work. The *Post* summarized an internal memorandum by Comptroller Lowe as saying "the new fund shortage will delay contracts for parts of the G Street line, two segments on the future Alexandria line both in Washington and south of the Pentagon, and two segments of the first line scheduled to serve Southwest Washington." Lowe estimated that the opening of the G Street line, scheduled for December 1973, would now be postponed to late spring 1974 at the earliest.

As Congress left Washington for the August recess, the *Post* explained:

Metro's current tribulations are the product of a decade of controversy over the relationship between the proposed subway system and the interstate freeway network existing and planned in Washington and its suburbs.

The continuing drama prompted at least one county executive, Montgomery County's Gleason, to indicate he might not make further contributions to Metro until Congress assured a steady flow of District funds:

You can't build a railroad like this. I think the time has come for us to get some kind of assurance from Congress If we can't there'll be a lot of big holes in the District of Columbia. I can't conceive of Congress leaving these holes in the ground without any subway built. [Eisen, Jack, "Metro Funds Run Out," *The Washington Post and Times Herald*, August 2, 1971; Denton, Herbert H., "County Aid to Metro May Halt," *The Washington Post and Times Herald*, August 3, 1971; West, Woody, "Subway Agency Broke Again," *The Evening Star*, August 2, 1971]

A couple of days later, WMATA opened bids for its sophisticated train control and communications systems, only to find that the lowest responsive bid of \$59.6 million, submitted by General Railway Signal Company of New York, was 24 percent over estimates. The next lowest bid was for \$66.6 million. Funds for the contract were available because WMATA had earmarked them before running out of funds. Chief of Engineering and Operations Dodge said, "I'm unhappy. We were hoping for something better."

Jack Eisen explained the system:

Metro officials have said the Washington system's train control equipment is the most sophisticated in the world. It is designed to dispatch trains at established intervals from their terminals, stop and start them at stations and halt them for emergencies.

An attendant in the cab of each train also would observe the track and be able to override the automatic controls.

The contract, if awarded to General Railway Signal, would be the biggest since Metro construction began, exceeding the \$38 million for the subway station at 12th and G Streets, NW., involving two track levels and a mezzanine.

The WMATA engineers concluded that the bid overrun was attributable mainly to the communications system included in the contract. The estimate also was in error by \$5 million, according to General Graham. The contract for train controls was separated from the communications system and awarded to General Railway Signal Company for \$42 million on September 2.

As reporter Fred Barnes pointed out in the *Star*, the suburban counties had been upset by the original high bid. In view of Chairman Natcher's withholding of District funds, suburban officials were threatening to withhold further payments to WMATA:

This has prompted some suburbanites to point out bitterly that current subway construction is limited to the District and the suburbs alone are paying for it.

Already some suburban jurisdiction leaders, notably Montgomery County Executive James P. Gleason, have said they might cut off their jurisdictions' funding of Metro because the district isn't paying.

Awarding of the contract did nothing to resolve the "heated dispute" on matching funds, but the suburban jurisdictions were now "less likely to make a hasty decision to stop paying for subway construction." [Barnes, Fred, "Awarding of Metro Contract May Ease Suburban Fears," Interpretive Report," *The Evening Star*, September 3, 1971]

In an August 12 letter to congressional leaders, Secretary Volpe revealed that officials were planning public hearings on three design schemes for the Potomac River Freeway in Georgetown, including one developed by FHWA. The letter was not officially released, but reporters obtained a copy. According to Jack Eisen's account:

In addition to the currently official plan for the road, Volpe said the hearing would offer two other proposals for public discussion.

One would be the concept proposed last year in the Georgetown waterfront feasibility study, prepared by a Private [sic] consultant and partly financed by the National Capital Planning Commission. It calls for putting the freeway in a trench and constructing buildings on air rights overhead.

The other would be what Volpe called “a largely covered low-profile concept developed by the Federal Highway Administration,” part of the Transportation Department. As displayed on a model at a closed meeting of the House Public Works Committee several weeks ago, this proposal calls for building the road on the surface. A platform, providing access to the river, would be built over the road near the foot of Wisconsin Avenue. A building would be built on air rights atop the freeway near the foot of 31st Street NW.

Both of these plans would require elimination of the existing elevated Whitehurst Freeway. As contemplated by the Federal Highway Act of 1968, which requires construction of the eight-lane Potomac River Freeway, the Whitehurst would be converted into the new road’s westbound lanes. The eastbound lanes would be sunk in a trench or tunnel between the Whitehurst and the river shore

Volpe, in his letters, cited the hearing plan as evidence of continued progress on the District’s lagging highway program.

According to Director Airis, the date of the hearing depended on court action on the Three Sisters Bridge. “No date has been set,” he said, adding that “nothing is firm.” [Eisen, Jack, “Volpe Set to Hold Public Hearings on 3 Designs for Potomac Freeway,” *The Washington Post and Times Herald*, August 18, 1971; “D.C. Plans New Freeway Hearings,” *The Evening Star*, August 18, 1971]

By month’s end, WMATA officials had again shifted the schedule for opening the first 4½-mile section of Metro to summer 1974. The change was largely a result of Chairman Natcher’s refusal to release the District’s 2-years worth of matching funds totaling \$72.2 million. Although WMATA had about \$211 million in funds available for Metro construction, the agency could not begin bidding for new contracts in the absence of matching funds. District and WMATA officials were hopeful that Chairman Natcher would release the funds when Congress returned from its August recess. [Barnes, Fred, “Metro Now Predicting Mid-’74 Service Start,” *The Evening Star*, August 29, 1971]

The Metropolitan Washington COG decided to meet on September 9 to discuss ways of freeing the Metro funds and securing the Federal guarantee needed for WMATA bonds. This would be the first regional effort to secure the needed legislation. Francis B. Francois, president of the council and a member of the County Council of Prince George’s, Maryland, told reporters in advance, “An all-out concerted effort is the only way we can move this.” [“COG Session Set on Subway Funds,” *The Washington Post and Times Herald*, September 4, 1971]

On the day of the meeting, the *Post* reported that the transcript of the June 7 hearing that Chairman Natcher had held in executive session had been released. Eisen told readers that Chairman Natcher had “raised the possibility that an all-but-promised \$72.5 million to extend work on the Metro subway system may not be released as expected this fall.” The article quoted Chairman Natcher’s skepticism about the cost of Metro and his comment that unless the commitments in Secretary Volpe’s secret five-page letter were carried out and the freeway and subway systems proceeded together, “I do not intend to recommend construction funds for our rapid rail transit program.”

As Eisen explained about the Volpe letter, “That letter has never been released, making it impossible for the public to pinpoint exactly what Natcher expects as the price for releasing the subway money.”

The *Star* emphasized that Metro officials denied the subway would cost up to \$5 billion. The article cited the dialogue with Representative Giaimo, including Chairman Sickles’ comment that, “I think you should allow there is no larceny in our hearts.” [Eisen, Jack, “Metro Fund Threatened by Natcher,” *The Washington Post and Times Herald*, September 9, 1971; “Natcher Airs New Threat to Metro Funds,” *The Washington Post and Times Herald*, September 12, 1971; Green, Stephen, “Subway Men Deny Real Cost \$5 Billion,” *The Evening Star*, September 13, 1971]

Responding to the June 7 transcript, a *Post* editorial said the “ever-perilous state of Washington Metro” was “worse than ever, for nobody can even explain it anymore.” Each year, Chairman Natcher “concocts an annual highway-subway money drill designed to make the city government jump through a set of hoops of his choosing and who then promptly pans the performance, leaving Metro in an increasingly precarious bind.” The hearing transcript indicated, the editorial said, that he would release the funds if officials carried out promises in Secretary Volpe’s letter to him. “The only catch is, he won’t show anybody what’s in the letter . . . Well, secrecy is one thing, and blackmail another.” If the entire metropolitan area had “to play cute games to figure out the current price of a floating ransom, it gets insane.”

The *Post* called on Chairman Natcher to release the Secretary’s letter and if he would not do so, Secretary Volpe should release it. “Beyond that, President Nixon should step in, call all the parties together and break this disgraceful impasse.” [“The Fate of Metro Now: A \$211-Million Riddle,” *The Washington Post and Times Herald*, September 10, 1971]

During the June 9 meeting, area officials agreed with the *Post* that the time had come for President Nixon to intervene. COG adopted a resolution that asked President Nixon “to call the parties to the impasse together at the earliest possible moment so that negotiations may begin at once to break the impasse.” Initially, Chairman Sickles had urged a “discreet” campaign, but Delegate Charles A. Doctor (D-Montgomery County, Md.) had urged the council to seek help from the President. “I think a little bit of presidential leadership might not hurt,” Doctor told his colleagues. Doctor also suggested that the county call on Governor Mandel of Maryland and Governor Holton of Virginia to “intercede” with their States’ congressional delegations to give unanimous support to release of the District’s Metro funds. The council never mentioned the freeway disputes and mentioned Chairman Natcher “only in passing.”

In addition, the council agreed to launch a lobbying effort by as many as 200 local officials to convince Congress to release the District's funds. Francois said, "We're asking elected officials to contact elected officials." He added, "We're not angry with anyone. We're just angry that the funds have not been forthcoming." [Eisen, Jack, "Area Governments Appeal to Nixon to Help Metro Get Federal Funds," *The Washington Post and Times Herald*, September 10, 1971; Barnes, Fred, "COG Charts Lobbying Drive for Release of Subway Funds," *The Evening Star*, September 9, 1971]

The *Star's* editorial cartoonist Garner used the "dollar-on-a-string" prank to illustrate the situation in a cartoon published on September 11. It depicted Chairman Natcher in the foreground holding a string attached to a bag labeled "Subway Funds" in the background. As a symbolic figure labeled "D.C." reached for it, Chairman Natcher was about to yank the bag out of reach. The caption read: "Try it again – maybe this time I'll let you have it."

Local officials gathered on September 14 for a summit at the suggestion of Montgomery County's Gleason. They adopted a resolution calling on President Nixon, Secretary Volpe, and Congress to find a way to end the impasse, but they considered the resolution a weak response to the situation. Gleason, who had suggested halting all Metro construction to force a showdown, said it amounted to saying the leaders were "against sin."

Several officials were skeptical that the summit had accomplished anything. They had not even managed to figure out what the problem was with District freeway construction. Fred Barnes reported in the *Star*:

Notable at the meeting was the failure of District leaders to spell out exactly what Natcher wants them to do in the way of freeway and bridge construction before he will appropriate the subway funds Gleason pressed District leaders to reveal "the dimensions" of their conflict with Natcher. "Let's not shove this thing under the table," he said.

But Mayor Walter E. Washington said the matter of District freeway and bridge construction shouldn't be discussed at all. He refused to disclose what has gone on in closed-door hearings by the House District Appropriations subcommittee, of which Natcher is chairman.

The mayor would only say that the District is "in compliance" with the orders of Congress concerning freeway construction and the building of the Three Sisters Bridge.

"Then I must ask, 'Why are the funds being held up?'"

"That's the question we all seek an answer for," responded D.C. Deputy Mayor Graham W. Watt. [Barnes, Fred, "Metro Summit Produces Resolution," *The Evening Star*, September 14, 1971]

Representative Broyhill agreed with COG and other local officials that President Nixon's help was needed. On September 17, he wrote to the President again to request his help. The *Star* said that with the letter, Representative Broyhill "has broken openly with Rep. William H. Natcher, D-Ky., over the subway-freeway impasse." Without naming the chairman, the letter criticized

“the efforts by some to hold up construction of the subway to force” the District to build the Three Sisters Bridge and other Interstate freeways. In the course of the letter, he called the impasse “ridiculous,” “asinine,” and “scandalous,” and said the “public holds all those engaged in this sport in disgust.”

He spread the blame around, telling President Nixon that “unfortunately your administration is being blamed as much as anyone for not taking the leadership required to bring order out of this sea of chaos.” Representative Broyhill asked the President to order Federal agencies and District officials to work together to get construction underway on all projects within 30 days. [Green, Stephen, “Broyhill Asks Nixon for Help on Metro,” *The Evening Star*, September 18, 1971]

Later that month, engineers completed testing the model built in Skokie, Illinois, to test the design of the Three Sisters Bridge. The \$1 million model had been subjected to several load tests, including one that simulated the pressure of 13 tiers of bumper-to-bumper trucks – a load the one-level bridge would never have to sustain. According Dr. W. Gene Corley, manager of the structural research section of the Portland Cement Association, the model passed all the tests “with flying colors.”

In the *Star*, Barnes described the ultimate load test, during which the bridge performed as expected:

A crowd of engineers and officials from the D.C. Department of Highways and Traffic and the Federal Highway Administration gathered to see this one. Hydraulic jacks pulled on the weights in the amount of the service load and nothing happened.

After this came the test for “ultimate load,” the one simulating the weight of 13 layers of trucks. Under this load, supposed to bring the model to the brink of collapse, it cracked in some spots but didn’t buckle. This, too, was what was supposed to happen to a safe bridge, the engineers said. “There were only minor cracks,” said Corley, “fewer than we expected and they were not very wide. When we took the load off, the cracks closed up.

“Now they are very small and hard to see. The model is undamaged. There was no other sign of inelastic behavior or impending failure. The model is in excellent condition.”

How each nook and cranny of the model reacted under the loads was recorded on computers which fed engineers with a steady flow of figures. All the figures were favorable, they said.

The tests created some excitement among knowledgeable onlookers. But “to the outside, it was about as exciting as watching a chess match when you don’t know how to play the game,” said Gerald F. Fox, an engineer with the New York City firm, which designed the bridge.

Most of the engineers involved in the tests did not think they were necessary. The bridge had been designed based on experience in other countries, particularly Germany and Japan, with concrete cantilevered bridges. The design was increasingly popular in other countries where the river to be spanned carried a great deal of industrial traffic. That was not the case with the

Potomac River. Corley said, “The primary reason for choosing this type of span in Washington was its appearance. It will be a very attractive bridge. It will be much better looking than having a lot of supports out in the river.”

The engineers planned one more test:

Now, the engineers are making plans to push the model past the brink. Sometime in the next few weeks, they will increase the weight on the model beyond the ultimate load. “We’re going to see how much it takes to break it,” said Fox. “And finding exactly at what point it breaks will be of further help to use in building other bridges.” [Barnes, Fred, “At Least, It Won’t Collapse,” *The Evening Star*, September 28, 1971]

The District, based on the test results, asked Secretary Volpe on September 29 to issue a formal certificate of safety. “Volpe should do so immediately,” a *Star* editorial advised after discussing the “non-startling finding,” that “confirmed what most highway experts have said all along: The Three Sisters Bridge, as now designed, will be as safe and durable as man can make it – assuming it’s ever built.” The hope was that the results would resolve forever “one of the weirder aspects of Washington’s Alice-in-Wonderland transportation mess.” Secretary Volpe, by issuing the certificate, could lead to resumption of construction of the bridge, and “that development, delayed too long already, will free Washington’s hostaged subway funds.” [“Volpe’s Tinker-Toy,” *The Evening Star*, September 30, 1971]

Barnes, who had covered disputes about Baltimore’s Interstate network while with *The Baltimore Sun*, wrote an Interpretive Report for the *Star* on October 6 about whether the city could resume construction of the bridge without going back to Judge Sirica. All of the court’s requirements had been met. Secretary Volpe, known to be “a strong proponent of the bridge,” was reviewing the District’s request for certification:

Some officials believe that Natcher . . . will release the money when construction of the bridge is resumed. So this provides another incentive for immediate resumption.

While waiting for the ruling of the three-judge panel of the U.S. Court of Appeals, lawyers for the District, the Justice Department, and the Transportation Department were “in a quandary” over whether they needed Judge Sirica’s approval to resume construction or if approval of the Appeals Court would be sufficient. “The bridge matter is so important and has become so delicate that a decision will not be made without the approval of the White House, sources said.” [Barnes, Fred, “3 Sisters Can’t Bridge Courts, Hill,” Interpretive Report, *The Evening Star*, October 6, 1971]

The I-66 Lawsuit

Despite the opposition to I-66 expressed during the December 1970 public hearings, the Virginia Highway Commission was determined to proceed. On February 18, 1971, the commission approved the design for the 3-mile segment between Glebe Road and Lee Highway in Arlington and the approaches at the Potomac River to the Three Sisters Bridge. The estimated cost of the

segment was \$10 million. The commission submitted the plan to FHWA for what the *Post* described as “routine approval.”

With that approval, the Virginia Highway Department would be able to clear the ground for construction. The State’s location and design engineer, P. B. Coldiron, expected the State to request construction bids in the fall. He added that the State would hold a public hearing for the remaining 6 miles of I-66 between Glebe Road and the Capital Beltway “late this year or early next year.” He also said that John O. Simonds would have a preliminary report on his recommendations “in a couple of months.” [Wilkinson, Tom, “I-66 Work In Virginia Approved,” *The Washington Post and Times Herald*, February 19, 1971]

Leland J. White, in his history of the I-66 battles, wrote:

Within days, ACT filed suit in federal District Court seeking to enjoin the Secretary of Transportation and the VDH from proceeding with construction of I-66. Central to their argument was that the VDH had not filed a comprehensive environmental impact statement as required by the National Environmental Act of 1969. [White, page 60]

They also claimed that the plans for the highway, dating to February 1959, were planned at a time when officials and planners were fixated on urban freeway networks. They were based on data that might be out of date. For example, plans for Metro had not been developed at the time, but now the likelihood of rapid rail transit meant that traffic projections were probably wrong. [Kneece, Jack, “Plans at 3 Sisters Spotlight I-66 Suit,” *The Sunday Star*, May 30, 1971]

In March, the *Post* published an article about the growing battle over I-66. It described the segment:

As approved by the Highway Department, I-66 will be eight lanes and between 200 and 250 feet wide between the Beltway and shortly before the top of Spout Run Parkway.

There, it divides as it approaches the Potomac. One leg will run eight lanes through 30 acres of Spout Run Park, the other will widen to 14 lanes and will follow Lee Highway down to Rosslyn Circle on the Virginia side of the Key Bridge.

Spout Run Park, 30 acres of woods surrounding Spout Run, will be virtually obliterated as the freeway moves toward the river and its link with Washington at the Three Sisters Bridge.

In court papers, Commissioner Fugate opposed delaying the 3-mile segment “inasmuch as approval . . . was given in 1959 after a public hearing and no reason has been given by plaintiffs for failure to assert their claim at an earlier date.” He pointed out that the State had acquired extensive right-of-way for I-66, a process that the plaintiffs did nothing to oppose.

Plaintiffs claimed that I-66 would cause irrevocable harm to the community:

Fugate's response to this complaint, taken from papers filed in the lawsuits, is: Inasmuch as the plaintiffs under state law are entitled to full compensation for property taken and relocation assistance where warranted, there is no irreparable harm."

Opponents say it is precisely this sort of laconic bureaucratic assurance that money solves (or removes) all problems that has helped trigger the citizens' opposition, and aided them in casting their dispute as one more battle of the individual against governmental injustice.

The article described Bright N. Springman as a draftsman with the U.S. Geological Survey who had lived in an apartment at 1577 Colonial Terrace in Arlington for 7 years. "At the point where the freeway goes past him enroute to Rosslyn Circle it is planned to be 14 lanes and 350 feet wide." In the course of his research, he had discovered the State's plan to route Spout Run into a concrete culvert that would be a mile and a quarter long. The State had not mentioned the culvert during the December public hearings, but now informed a reporter that it was an engineering necessity. Springman described I-66 as "an atrocity . . . a form of violence against the land and against generations we can no longer allow." [Barnes, Bart, "Major Battle Shapes Up Over Building of I-66," *The Washington Post and Times Herald*, March 7, 1971]

Secretary Volpe and FHWA Virginia District Engineer King filed a joint response to the suit in late March. In response to the plaintiffs' claim that the highway would damage parks, wildlife, race relations, and other aspects of life in Arlington, the officials denied that "the quality of life in Arlington will be diminished or the health and well-being of its residents jeopardized." They also claimed that the suit to block the highway had been filed too late after planning for I-66 began.

Federal officials generally denied ACT's claims without explanation, but Fugate responded in detail. He argued that I-66 would reduce air pollution by allowing traffic to move freely, instead of in stop-and-go congestion. As summarized in the *Post*, the freeway also would "raise property values, provide a habitat for small wildlife on the highway's margin, raise the water table by reducing the total amount of impervious roadways needed in the area, and improve the flow of Spout Run, the principal creek affected by the highway."

Fugate denied that the location of I-66 had not been reconsidered since the 1968 hearing, adding that some changes might occur in the design to accommodate new environmental considerations.

He expected I-66 to enhance the county's tax base, while reducing the county's cost in maintaining its roads as traffic shifted to the freeway. He denied the claim that Virginia would not build the road if FHWA were not providing 90 percent of the funds.

He objected to ACT's request to halt right-of-way acquisition for the freeway. At the time of the filing, 81 percent of the right-of-way needed for I-66 had been acquired. He requested dismissal of the suit because halting acquisition would delay the letting of construction contracts scheduled for the fall. [Edwards, Paul G., "U.S. Virginia Claim Only Good From I-66," *The Washington Post and Times Herald*, March 30, 1971; "U.S. Reply to I-66 Suit Denies Citizens Charges," *The Evening Star*, March 30, 1971]

On June 3, Simonds appeared before the Arlington County Board to present his preliminary ideas for mitigating adverse impacts of the 3-mile segment of I-66. State and FHWA officials, he said, had encouraged him “to make I-66 through Arlington an environmental model for the entire nation.” The goal was to “integrate it into the community in a harmonious way.” In developing the plan, he had considered the suggestions of citizens and State and Federal road engineers. The engineers had contributed much to his design because “we have served as a catalyst” to spark their creativity. The *Post* stated that the proposals, if adopted, would make I-66 “as much a tree-shaded parkway as harsh concrete expressway in its controversial route through Arlington.”

The entire 3-mile segment of I-66 would be depressed to reduce noise impacts. Noise reduction would be aided by the addition of earth mounds, trees, and acoustic walls. Where the roadway would run close to Washington-Lee High School and the county school administration building, Simonds proposed construction of a 1,000-car garage on air rights above the highway along with a 12-court tennis pavilion. To reduce noise near Page Elementary School, Simonds proposed to increase the right-of-way to allow for construction of a park.

According to the *Star*:

Other plans include covered pedestrian walkways and bicycle and pedestrian paths insulated from the road noise, he said. A low-intensity, even lighting system is also being worked on, he said.

In response to a question, Simonds said, “Air pollution in the whole valley will not be too serious” because the valley is wide and new federal controls on vehicles will drastically cut pollution emissions by 1975.

Reporters in the *Star* and *Post* agreed that the proposals were greeted with skepticism, even laughter from the capacity crowd, but according to the *Star* “the volume was low in contrast to earlier tumultuous public hearings on the road.” When Simonds described his plan to build a park near Page Elementary School as the “highway’s gift to the community,” he was “greeted with laughter from the audience.”

Chief Engineer and Deputy Commissioner Harwood, in attendance, said the State highway agency would “go as far as it can in implementing” the proposals, but was doubtful the State “can do it all.” Simonds did not provide a cost estimate, but Harwood estimated it would increase construction costs by 15-20 percent. [Brockett, Diane, “Arlington Given Plan to Soften Impact of I-66,” *The Evening Star*, June 4, 1971; Ringle, Ken, “Arlington Board Shown I-66 ‘Parkway’ Design,” *The Washington Post and Times Herald*, June 4, 1971]

U.S. District Judge Oren R. Lewis held a 4-hour hearing on the suit on August 3. Lawrence J. Latto, representing the plaintiffs, argued that Arlington had changed “so substantially” since the last public hearing 13 years ago that I-66 should be reexamined in a new public hearing. He referred to Section 18 (“Preservation of Parklands”) of the Federal-Aid Highway Act of 1968, which amended Section 4(f) and the comparable Section 138 of Title 23, United States Code, to establish uniform requirements for preservation of publicly owned parklands. As mentioned before, the amended section prohibited the Secretary from approving the use of such lands for

highway projects unless there is “no feasible and prudent alternative,” and if such lands must be used, that all possible planning be instituted to minimize harm to these lands. In addition, the section required public officials with jurisdiction over the parkland to state whether the parkland or other site is of significance for preservation.

The *Post* summarized Latto’s arguments:

He argued that the last location hearings, which were held in 1958, were “stale.” “There does come a time,” Latto said, “when changes in a community . . . are so significant and substantial that the original determination (on the road) becomes vitiated”

Relying on a recent U.S. Supreme Court ruling that barred the construction of a road through a Tennessee park [Overton Park in Memphis], Latto argued that federal officials should also restudy the I-66 route for its impact on the 22-acre Bon Air Park and 30-acre Spout Run Parkway. The road would take 9.7 acres and 5 acres respectively from those parks

Latto said further that the plaintiffs were not questioning whether the road “is good,” but argued that federal and state officials should be made to restudy the freeway’s impact on the environment, particularly in light of plans for a subway system and updated figures on population and housing trends.

The article also described the defense:

Justice Department attorney Irwin Schroeder, representing DOT, contended that the I-66 project was exempted from the 1968 law since approval had been given before the federal act was passed.

He added that federal and state highway authorities have reviewed the project and “concluded that no new hearings are required.” He also said he was skeptical that new hearings would result in a route change

Schroeder contended that the road’s path through the two parks need not be reaffirmed and that the tracts, partially purchased for highway purposes, did not fall in the category of major national, state or local interests as defined by the Tennessee ruling.

Latto, however, countered that while the route may have been approved, construction of the road still has to be reaffirmed by Volpe, who, Schroeder said yesterday, has decided against a review.

Regarding the parkland, Schroeder replied that “the land is of greater significance for highway purposes than for parks.” Judge Lewis agreed that I-66 would endanger only the edges of the two parks, but told Schroeder that under further consideration via a public hearing, “You might end up with moving your road 50 feet.”

Latto also raised a concern about the tape recording of the 1958 public hearing, claiming the failure to transcribe the tape until the present year was a regulatory violation. BPR’s PPM 20-8,

in effect when the hearing was held, required that “a public hearing shall be held and a transcript made thereof.” The PPM was amended on June 16, 1959, to state that tape recordings would not be accepted as a transcript. Schroeder denied the violation and Judge Lewis said the issue “doesn’t intrigue me much.” [Scannell, Nancy, “I-66 Foes Tell Court New Hearings Are Needed,” *The Washington Post and Times Herald*, August 3, 1971; Beckham, Nancy, “Judge Lewis to Study Request For New Route 66 Hearing,” *The Evening Star*, August 4, 1971]

Judge Lewis ruled for the defendants on October 9, 1971, saying “there is no justification or legal requirement for further delay in completing construction of I-66.” He made clear that his decision affected only the 9.7-mile section of I-66 between the Capital Beltway and the Theodore Roosevelt Bridge. He explicitly excluded any judgment on I-266 or the Three Sisters Bridge:

The Three Sisters Bridge is not a part of I-66, neither is the proposed connecting road, I-266. Some adjustments in the I-66/I-266 interchange will be required if I-266 is not built. They have been considered and approved.

In so ruling, he rejected the plaintiffs’ argument that the need for I-66 hinged on whether the District built the Three Sisters Bridge.

He also disagreed that changes in the area necessitated additional review:

The transportation needs of the area have been monitored over the years by the many agencies responsible therefor – and the officials charged by law for selecting the location for I-66 have reaffirmed their choice on numerous occasions up to the present time.

He added that the general location of I-66 had been known since 1961 when it was included in the Arlington County General Land Use Plan; development had taken place with that corridor in mind.

Judge Lewis also rejected the Section 4(f)/Section 138 argument. Plaintiffs had not claimed the requirements were retroactive, but that they cover all work begun after their effective date. To accept that argument would mean that all work on Interstate highways traversing any park would have to be halted, a solution that he said was clearly not the intent of Congress. Moreover, Arlington County had purchased Bon Air Park “for the specific purpose of highway use.” The NPS had agreed to the use of 5 acres of Spout Run Parkway for I-66 and 13.97 acres for I-266 on the condition that the State replace the land with similar parkland. Neither the county nor NPS officials had found that the parkland was of local or national significance for park purposes. Therefore, Judge Lewis said the only inference that can be drawn was the one drawn by the defendants, namely that the land is more important for highway than park purposes.

He also did not accept the argument that I-66 must retroactively comply with NEPA. The route had been approved before NEPA was enacted on January 1, 1970; the only activity since then involved work authorized or approved before then. FHWA issued guidance on November 30, 1970, that an environmental impact statement (EIS) under NEPA would be required only on projects that had not received design approval prior to February 1, 1971. FHWA had approved the EIS for I-66 on January 21, 1971, just before the deadline. Regardless, the defendants stated

they were requiring Virginia to file an EIS before construction approval, and work was underway on the review.

As for failure to transcribe the 1958 public hearing, Judge Lewis dismissed the issue, saying that it “at best constitutes harmless error.”

Commissioner Fugate was “very pleased” with Judge Lewis’s opinion. Fugate estimated that construction would begin on the 3-mile segment in the spring “if we can get some of our environmental designs cranked into the plans” in time.

Emilia Govan said she was disappointed by the ruling but declared, “We’ve just begun to fight. The citizens are not going to allow that highway to be built without challenging every future step.” She said the coalition intended to appeal the ruling. [Scannell, Nancy, “I-66 Suit Quashed By Judge,” *The Washington Post and Times Herald*, October 10, 1971; Beckham, Nancy, and Hutchens, Timothy, “Judge Dismisses I-66 Suit, See No Basis for Delay,” *The Evening Star*, October 9, 1971; *Arlington Coalition on Transportation v. Volpe*, Civil Action No. 59-71-A (E.D. Va October 8, 1971)]

The *Star* was encouraged by recent developments. Judge Lewis’s opinion had removed another “obstacle to progress on this area’s besieged highway program.” The opinion was “a major breakthrough” because it “unequivocally” rejected the plaintiffs’ arguments. It also undercut arguments by opponents of the Three Sisters Bridge who contended that the bridge should not be built “while the future of the freeway that would connect it to the Beltway is still uncertain.”

Maryland, as will be discussed, had indicated it would “press for construction of Interstate 95 to connect the Beltway with downtown Washington.” Moreover, the model of the Three Sisters Bridge had passed its safety test “by a margin so wide as to be astonishing.”

The *Star* understood that these positive signs did not mean construction could begin on any of these projects soon. “Regional highway planners have learned from repetitious experience that when an obstacle falls, another is quite likely to pop up in its place.” However, if construction could begin, “this city’s subway money that is frozen on the Hill will undoubtedly be released.”

Therefore, VDH officials should press for construction as soon as possible, and seek an early hearing if an appeal is filed. Similarly, Secretary Volpe should press for speedy resumption of construction for the Three Sisters Bridge:

Traffic continues to swell and clog, and key legislators continue to sit on the subway money because Congress’ highway-building orders of long ago haven’t been carried out. It’s time for some forceful action to break the costly stalemate. [“Time for Highway Action,” *The Evening Star*, October 11, 1971]

The day after that editorial appealed for action, Judge Bazelon issued the majority opinion on the Three Sisters Bridge, as discussed earlier. His decision encouraged ACT to renew its fight against I-66. About 150 opponents met in the evening of October 13 to discuss their next steps. Latta indicated he had filed a notice of appeal with the Fourth U.S. Circuit Court the day before seeking reversal of Judge Lewis’s opinion. He also planned to seek a temporary injunction

against further condemnations for right-of-way acquisition, which VDH had voluntarily suspended while the court proceedings were underway.

Latto pointed out that many of the points that Judge Lewis had rejected had been upheld by Judge Bazelon as requiring further review. For example, the bridge ruling required consideration of alternatives to the Three Sisters Bridge and its impact on the environment, including parklands, while Judge Lewis found that additional review under NEPA and Section 4(f) was not needed. [Scannell, Nancy, "I-66 Foes Begin New Legal Fight," *The Washington Post and Times Herald*, October 14, 1971]

A Blockbuster Ruling

The I-70S North-Central Freeway and its I-95 Northeast Freeway spur had generated much of the original opposition to the District's freeway network, including from ECTC activists. Since the abandonment of the I-70S/Northwest Freeway in the Wisconsin Avenue corridor and the shift of the Interstate number to the North-Central Freeway, the Maryland links to I-70S and I-95 between the Capital Beltway and the District line had become increasingly controversial.

In early October, Secretary of Transportation Harry R. Hughes, a State legislator since winning election in 1954 who had become Secretary with the start of Maryland Department of Transportation operations on July 1, 1971, wrote to Montgomery County officials to say that the State would not oppose dropping the I-70S link between the Capital Beltway and Fort Totten in the District.

One factor in the State's decision was that I-70S would have to be carried on the Capital Beltway from the Pook's Hill interchange, the present terminus of I-70S, for several miles before linking via interchange with the I-70S connection with the District. Secretary Hughes said this link would cause serious traffic problems without reconstruction of the Capital Beltway. "Maryland does not have the resources, either on its own or in combination with any federal authorization, to overcome this problem." He added that deletion of I-70S between the Capital Beltway and the District line would be contingent on being able to use the Interstate funds on other Interstate projects in Maryland.

At the same time, Secretary Hughes said the State had not abandoned the I-95 link inside the Capital Beltway. The State endorsed upgrading the Baltimore-Washington Parkway to Interstate standards with a link to the city's proposed Industrial Highway in the New York Avenue corridor. These were, however, no substitute for a direct I-95 link from the Capital Beltway through the District:

Interstate 95 is an important link in Maryland's transportation system, providing direct service within the Baltimore-Washington corridor, the fastest growing area of the state. Many significant development decisions, both public and private, have been made over the last decade in suburban Maryland in anticipation that Interstate 95 would be built.

For years, the map of the I-95 extension had shown it passing west of the University of Maryland's College Park campus, running through Northwest Branch Park on an undecided

alignment, and entering the District near Chillum, Maryland. However, the 5-mile extension of I-95 to the District line would be needed only if the city built its portion of the route. The State asked COG for \$1.8 million to study the routing question. [Walsh, Edward, "Beltway, I-95 Leg Pushed," *The Washington Post and Times Herald*, October 7, 1971]

In a resolution dated September 15, the Prince George's county council had protested the routing of I-95. The resolution called the extension "almost a classic example of neighborhoods and park lands being sliced by 'concrete ribbons' to accommodate runaway technology." The county, which had received letters from residents along the proposed route opposing construction, preferred to emphasize Metro service.

At the county's request, COG held a conference on October 8 to consider the routing. A State transportation department representative, Fred Gottemuller, advised officials that the State planned to study routing for the extension but also the no-freeway option. The problem with the no-freeway option was that traffic would overload existing roads or require the State to widen the Capital Beltway between the present terminus of I-95 and the Baltimore-Washington Parkway. The widening would create an "environmental . . . impact of great magnitude."

Gottemuller told conference participants that the State was considering an alignment along a major electric power line in the vicinity of New Hampshire Avenue and another option along the Baltimore and Ohio Railroad's branch line. He indicated that the State was waiting for the report, requested in the Federal-Aid Highway Act of 1970, from the District and Secretary Volpe on the routing of I-95 in the District.

George H. F. Oberlander of NCPC reminded State officials that NCPC and the D.C. city council had adopted a policy of not building major new road gateways into the city. This policy would prohibit the I-95 link that Maryland was studying. [Eisen, Jack, "Plans for Building I-95 into City Stirs Fight," *The Washington Post and Times Herald*, October 9, 1971]

On October 12, the three-judge panel of the U.S. Court of Appeals issued what the *Star* called "a blockbuster ruling." The decision, approved 2 to 1, reversed Judge Sirica's ruling that construction could begin if certain conditions were met. Referring to "the long and sometimes acrimonious imbroglio" over the bridge, Chief Judge Bazelon wrote that Secretary Volpe's approval of the Three Sisters Bridge "must be predicated on compliance with a number of statutory provisions." These provisions included Section 4(f) of the Department of Transportation Act of 1966. In view of the Supreme Court's ruling in the Overton Park case, Judge Bazelon wrote:

Our review of the Secretary's determination is hindered not only by the lack of any formal findings, but also by the absence of a "meaningful administrative record within the Department of Transportation evidencing the fact that proper consideration has been given to the requirements of this section." However regrettable, the failure to provide explicit findings indicating why all possible alternatives to the bridge would be unfeasible or imprudent does not, in itself, invalidate the Secretary's action. But the complete non-existence of any contemporaneous administrative record is more serious. Absent a record, judicial review of the Secretary's action can be little more than a formality unless

the District Court takes the disfavored step of requiring the Secretary to testify as to the basis of his decision. And even the Secretary's "*post hoc* rationalizations," filtered through a factfinder's [sic] understandable reluctance to disbelieve the testimony of a Cabinet officer, will rarely provide an effective basis for review. Furthermore, it is hard to see how, without the aid of any record, the Secretary could satisfactorily make the determinations required by statute. The absence of a record, in other words, simultaneously obfuscates the process of review and signals sharply the need for careful scrutiny.

Secretary Volpe's testimony before the District Court was "on occasion uncertain and inconsistent with the testimony of others" and raised "a serious question whether he considered all possible alternatives" to the use of parkland as required by Section 4(f).

Section 23 of the Federal-Aid Highway Act of 1968 did not overrule these considerations. The provision directed construction of the bridge as specified in the 1968 ICE, but provided that the projects "shall be carried out in accordance with all applicable provisions of title 23 of the United States Code":

If the bridge cannot be built consistently with applicable law, then plainly it must not be built. It is not inconceivable, for example, that the Secretary might determine that present and foreseeable traffic needs can be handled (perhaps by expansion of existing bridges) without construction of an additional river crossing. In that case, an entirely prudent and feasible alternative to the Three Sisters Bridge might be no bridge at all, and its construction would violate §138 [of Title 23, United States Code, i.e., Section 4(f)]. Thus, the Secretary may have disregarded one possible prudent and feasible alternative to the use of parkland and historic sites on the mistaken assumption that that alternative was foreclosed

What was clear was that Secretary Volpe had been heavily influenced by the need to overcome Chairman Natcher's hold on Metro construction funds. Judge Fahy, who concurred in the decision, was "not entirely convinced that the District Court ultimately found as a fact that the extraneous pressure had influenced the Secretary's decision." However, Judge Fahy had authorized Judge Bazelon "to note his concurrence in my discussion of the controlling principle of law: namely, that the decision would be invalid if based in whole or in part on the pressures emanating from Representative Natcher." Further, "the Secretary must make new determinations based strictly on the merits and completely without regard to any considerations not made relevant by Congress in the applicable statutes." Judge Bazelon continued:

If, in the course of reaching his decision, Secretary Volpe took into account "considerations that Congress could not have intended to make relevant," his action proceeded from an erroneous premise and his decision cannot stand. The error would be more flagrant, of course, if the Secretary had based his decision solely on the pressures generated by Representative Natcher. But it should be clear that his action would not be immunized merely because he also considered some relevant factors.

The loss of subway funding might be a “unique problem . . . of extraordinary magnitude,” but Judge Bazelon wrote:

The Secretary plainly understood that the price of abandoning, modifying, or even delaying construction of the bridge was the loss of appropriations for the District’s subway. He undoubtedly viewed the prospect of that loss with understandable alarm, and may have concluded that the destruction of parkland was inescapable and appropriate in the face of Representative Natcher’s clear and enforceable threat. We cannot agree, however, that a determination grounded on that reasoning would satisfy the requirements of §138.

Judge Bazelon wanted to make clear what he was not saying:

To avoid any misconceptions about the nature of our holding, we emphasize that we have not found – nor, for that matter, have we sought – any suggestion of impropriety or illegality in the actions of Representative Natcher and others who strongly advocate the bridge. They are surely entitled to their own views on the need for the Three Sisters Bridge, and we indicate no opinion on their authority to exert pressure on Secretary Volpe. Nor do we mean to suggest that Secretary Volpe acted in bad faith or in deliberate disregard of his statutory responsibilities. He was placed, through the action of others, in an extremely treacherous position. Our holding is designed, if not to extricate him from that position, at least to enhance his ability to obey the statutory command notwithstanding the difficult position in which he was placed.

The court’s ruling focused on Section 4(f), but concluded that the Secretary’s decision also was inconsistent with the 3C planning requirements. Plaintiffs had argued that in December 1968, NCPC had rejected the Three Sisters Bridge in response to President Johnson’s call for a comprehensive plan for a District highway plan. Defendants pointed out that COG’s TPB, not NCPC, was the official 3C planning agency. TPB had approved the bridge. The court was unwilling to “resolve this dispute by some abstract balancing of NCPC disapproval against TPB approval.” The issue was not whether one plan was better than the other, but that the statute called on the Secretary “to determine whether a particular project will be consistent with sound transportation planning for the region.”

Secretary Volpe had delegated the responsibility for making that decision to Mr. Hall, FHWA’s Division Engineer in the District. Hall had concluded that TPB was the 3C agency, a decision that Judge Sirica had accepted. “But that reasoning cannot do service for the more sophisticated determination required by the statute.” Hall had “apparently” done little more than find that adopting TPB’s decision on the bridge was consistent with comprehensive planning:

Yet that is precisely the determination that the Department of Transportation, taking into account the recommendations of local plans, must make. The statute plainly does not permit the Department to delegate its statutory responsibility to a local planning agency. On remand, the Department must reevaluate the project in light of the purposes of § 134.

The court doubted that Hall's decision, grounded in a misunderstanding of the statute, "could be upheld on the present record even under the constrained standard of substantive review." TPB had approved the bridge in 1967, at a time when NCPC also approved the bridge. However, TPB had not adopted a comprehensive plan at the time:

TPB approved the project not under § 134, but under the Demonstration Cities and Metropolitan Development Act of 1966 [P.L. 89-754, November 3, 1966]. NCPC, on the other hand, developed a transportation plan in response to President Johnson's call for the development of a "comprehensive plan for a D.C. highway system" which would permit the Department of Transportation to determine whether the Three Sisters Bridge and other projects would be "appropriate links" in such a plan; it then rejected the bridge proposal. And even if TPB approval were not – at least on its face – stale, inapposite, and unsupported by any underlying, comprehensive plan, we would still have difficulty accepting the Department's finding without some explanation of how the § 134 determination could be made before plans for the bridge are finalized. Nothing in the record suggests that TPB approval – whatever its other apparent shortcomings – embraced each conceivable design that might eventually be adopted.

Judge Bazelon also raised concerns about compliance with 23 U.S.C. 109(a), which required approval of plans only if the proposed facility will "adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance." Judge Sirica, in finding that planning for the bridge had not determined if it would be structurally feasible, had called for such planning; the Court of Appeals concurred with that decision.

Plaintiffs, however, had argued that Secretary Volpe had not determined whether riverbed conditions would support the bridge and that an increase in air pollution attributable to traffic on the bridge would not pose a safety hazard. Hall had testified that he could not be certain the planned foundation would be adequate, but said, "there is no question that the piers can be built to support the bridge as presently planned." Obviously, Judge Bazelon explained, the Department of Transportation would not build a bridge if the riverbed was not suitable:

But § 109(a) requires not only that the bridge be safe, but also – and no less important – that its safety be ascertained before the Secretary approved the project. That requirement minimizes the safety hazards and at the same time insures that public funds will not be squandered on a demonstrably unsafe proposal

We hold that if such questions do exist, the Secretary must take steps to resolve them to the fullest practical extent before granting approval of the project under § 109(a).

As for air pollution, Judge Sirica had concluded that evidence of a potential threat was insufficient to require a special study of the issue. Obviously, Congress did not intend to permit construction of a bridge that would result in pollution that would be a threat to safety. "It does not follow, of course, that air pollution will be a significant hazard in all – or even any – highway projects; Judge Sirica did not find any evidence that the Three Sisters Bridge would pose such a

threat. Nevertheless, the Department of Transportation “has far greater resources and expertise” on this matter than the District Court. Such a study might reveal significant dangers:

Inquiry into this issue cannot be foreclosed merely because the District Court found no significant evidence of air pollution hazards. That determination must be made in the first instance by the Secretary of Transportation.

Judge Bazelon also questioned compliance with the public hearing requirements of 23 U.S.C. 128 (“Public hearings”). Without admitting fault, the city had conducted a design hearing in December 1970; he agreed that the hearing satisfied the requirement for a design hearing. Defendants also contended that a location hearing in 1964 satisfied the requirement for such a hearing. However, of three locations presented during that hearing, the one most similar to the current location was 1,500 feet away on the District of Columbia shore and 950 feet away on the Virginia shore. Interchanges had been substantially redesigned since then, affecting their location:

Accordingly, we remand this issue to the District Court for clarification of the factual basis of its conclusions, and for reconsideration in light of any further location changes the Secretary of Transportation may order.

The court also considered the Act of March 2, 1893. Judge Bazelon explained that the District Court had initially concluded that Section 23 of the Federal-Aid Highway Act of 1968 exempted the project from the public hearing requirements of Title 7 of the District Code. The subsequent Appeals Court ruling indicated that the District must comply with Title 23 provisions, but did not state whether it also had to comply with non-Title 23 requirements, such as Title 7.

Neither the briefs filed in the appeal nor the oral arguments addressed the issue. Section 23 had ordered construction of the bridge “notwithstanding any . . . court decision . . . to the contrary,” but Judge Bazelon pointed out that with regard to the District Code, his reference to the issue in his prior ruling had not been “to the contrary.” Therefore, he deferred judgment on this issue to allow the parties, if they wished, to file memoranda dealing with the question.

The court remanded the case to the District Court “with directions that it return the case to the Secretary for him to perform his statutory function in accordance with this opinion.” The court added:

It seems clear that even though formal administrative findings are not required by statute, the Secretary could best serve the interests of the parties as well as the reviewing court by establishing a full-scale administrative record which might dispel any doubts about the true basis of his action. Accordingly, the District Court is directed to enjoin construction of the bridge until the defendants have complied with the applicable statutory provisions as set forth in our opinion. [*D.C. Federation of Civic Associations et al., v John A. Volpe, Secretary of Transportation, et al.*, 459 F.2d 1231 (1971); underlining in original]

The *Star* called the ruling “startling.” The editors agreed with Judge Bazelon’s reference to this “long and sometimes acrimonious imbroglio,” but “with not much else”:

To the confusion reigning before, the ruling adds some vast new dimensions of controversy, broadening the scope of permissible legal attack on highway projects here and perhaps everywhere else in the nation. The result – particularly in Congress – is apt to be more acrimony, not less. The fate of the District’s hostaged subway appropriations is as unsettled as ever.

Adding to “this dismal picture” was the ruling’s “extraordinary challenge to congressional authority.” The ruling “instructs Volpe to ignore . . . such ‘extraneous considerations’ as a 1968 order of Congress which specifically directed that the bridge be built without delay.” Unless an appeal was planned, Secretary Volpe should immediately comply with the ruling, but it would not be easy because Judge Bazelon “has left no legalistic pebble unturned.”

As for Chairman Natcher, he should release the District’s appropriation of matching funds for Metro in full. His attempt to force the Administration “to proceed in good faith to build the bridge, as ordered by Congress” was moot, at least for the moment. “Volpe is so clearly powerless now to move in that direction that it would be an act of sheer irresponsibility for Congress to penalize the citizens of this region any longer by prolonging the appropriation ban.”

The Three Sisters Bridge would, in time, be built, because the “circulatory needs of traffic demand its construction.” How long it would take “to overcome the new barriers of legalisms” was unpredictable. [“The ‘Acrimonious Imbroglio,’” *The Evening Star*, October 14, 1971]

The *Star*’s news coverage of the ruling pointed out that the fate of the bridge “now appears to rest with” Chairman Natcher because the ruling argued that Secretary Volpe had approved construction without following all requirements in hopes that Chairman Natcher would release the District’s share of funds for the subway, which the Secretary strongly supported:

It has been widely believed that Natcher would be willing to overlook the lack of freeway construction if only the building of the Three Sisters Bridge would begin again. But the court’s ruling appears to put the shoe on the other foot – Natcher must release the money first and then construction on the bridge might be resumed.

Otherwise, Volpe would be hard pressed to argue that he hadn’t taken Natcher’s influence into consideration. The pressure is there. Volpe wants the subway built and there seems to be no way to untwine the two without Natcher taking the first step.

Even if Natcher released the District’s matching funds, Secretary Volpe would still have to follow the steps required by the ruling:

Government officials, still studying the court’s 34-page opinion today, were unsure exactly what these steps are and how they must go about taking them. Likewise, they say they don’t know how long it will take before the steps are completed and construction can be resumed.

They had considered the alternatives Judge Bazelon suggested and dismissed them as unfeasible. “The projected traffic load in the Virginia-District sector clearly calls for a bridge at the Three Sisters site, they contend.”

In addition, construction of I-66 through Arlington would seem to make the Three Sisters Bridge, which would carry some of the resulting traffic as part of I-266, “a necessity, or Arlington would be faced with a mammoth traffic problem.” A specific segment of that I-66 traffic, namely the trucks that were banned from the Theodore Roosevelt Bridge, needed the I-266 bridge to cross the Potomac River. At the same time, Arlington residents had challenged construction of I-66 in court. The outcome could affect the need for the bridge. [Barnes, Fred, and Groom, Winston, “Bridge Decision May Be Up to Natcher,” *The Evening Star*, October 13, 1971]

Representative Broyhill was the first Member of Congress to react to the ruling. He wanted to “get this logjam broken and free money for the subway.” He planned to offer a rider to the District revenue bill when the House District Committee met on October 15. The rider would order the District to resume construction of the Three Sisters Bridge regardless of “any court decision or administrative action or procedure.” He told reporters that Judge Bazelon’s ruling “makes the Congress look ridiculous,” adding:

If you have a judge who is personally against the bridge, then he’ll subvert the law. The only thing is to pass another law or impeach the judge. [“Bridge Move Sought Today by Broyhill,” *The Washington Post and Times Herald*, October 15, 1971]

Chairman Natcher, as usual, refused reporters’ requests for comment on the ruling. The *Star*, however, reported that:

Congressional sources said yesterday the appeals court decision strengthens Natcher’s hand if he again moves to block release of the subway money due to his irritation over the roads.

They explained that the court decision will permit Natcher to tell the House the courts have defied the wishes of Congress by halting bridge construction. This strategy would make it difficult for most members of the House to appear that they were knuckling under to the courts. [Green, Stephen, “Broyhill is Seeking to End Impasse on 3 Sisters Bridge,” *The Evening Star*, October 14, 1971]

The *Post* editorial board used the shoe analogy that the *Star* had also employed, beginning its editorial on the ruling:

The shoe is now on the other foot If Mr. Natcher wants the bridge built, he must allow it to be built under the terms of the law. If he persists in withholding the Metro funds, he at least ought to be a lot more explicit than he has been so far as to what he wants. He has yet to state precisely what he expects the District and the Department of Transportation to do – again, within the terms of the law – as a condition for their release.

Noting Judge Bazelon’s statement that no one had engaged in “impropriety or illegality,” the *Post* agreed about “illegality,” adding:

But where is the propriety in using appropriations for a subway which is already under construction as a club to beat the federal and city governments into doing anything other than it is required to do by law about a bridge?

Representative Broyhill, the editorial pointed out, thought Congress could pass yet another law ordering construction of the bridge. “But would that exempt the District and DOT from the required review? The question, it seems to us, only invites more litigation.” [“The Bridge and the Metro Funds,” *The Washington Post and Times Herald*, October 16, 1971]

Two days later, in a News Analysis, Jack Eisen wrote that when asked about the fate of the Metro subway, “nobody on either side of Washington’s agonizing subway-freeway dispute . . . can do more than guess an answer.” The area’s congressional delegation, with the exception of Representative Broyhill, had “sidestepped responses”:

Even “informed sources,” those shadowy insiders who sometimes tell newsmen at least part of what they know, profess bafflement.

President Nixon also had declined to intervene. “He is reported, however, to have called aides into his office a few weeks ago for an explanation of what is going on.”

Chairman Natcher maintained his “customary silence” but that did not stop speculation:

Some people feel Natcher might see fit to regard the court decision as the basis for graceful withdrawal from the dispute.

Perhaps so. But less sanguine observers point to what he said in House debate on Aug. 11, 1969, two days after the D.C. City Council agreed reluctantly to build Three Sisters. “I will never come into this House and ask that the Public Works Committee be repudiated and that we void the law of 1968,” Natcher declared. “I do not intend to do it.”

(An interesting sidelight: During that debate, a news clipping shows Natcher remarked that he did not “think there is a judge on any bench in the District of Columbia” who would override the congressional Three Sisters mandate. Natcher apparently edited this remark out of the debate transcript as printed the next day in the Congressional Record.)

He had never lost a fight on the House floor over his Metro fight, despite the close vote on May 11 on the Giaimo Amendment:

That was an internal House debate – all in the family, so to speak. Some now fear that the court decision might be regarded on Capitol Hill as a direct confrontation between the powers of the judicial and legislative branches. [Eisen, Jack, “D.C. Subway Fate is Doubtful Again,” News Analysis, *The Washington Post and Times Herald*, October 18, 1971]

Roberts B. Owen, counsel for the plaintiffs, reacted to the *Star* editorial in a letter published on October 22. He wanted to make clear that Judge Bazelon’s ruling had not “instructed Volpe” to ignore “extraneous considerations” such as Section 23 of the Federal-Aid Highway Act of 1968. Instead, the ruling called on Secretary Volpe to comply with Federal law, including Section 23, which directed officials to proceed “in accordance with all applicable provisions” of Title 23:

Accordingly, when it became clear that the Department of Transportation had not complied with those laws, the court had no choice but to order the department to do so.

The ruling was not, as the editorial had claimed, “an extraordinary challenge of congressional authority.” Instead, it challenged “an unauthorized disobedience (under pressure from one member of Congress) of the federal highway laws enacted by the Congress as a whole.” In calling for Secretary Volpe to proceed with construction of the bridge “in disobedience of federal highway laws enacted by Congress, your editorial itself (perhaps unwittingly) called for defiance of congressional authority.”

Finally, Owens objected to phrases such as “no legalistic pebble unturned” and “legalisms.” He said:

I take it that you are saying that, when congress in its wisdom enacts a law specifying the steps to be taken by the secretary in order to protect the public interest, that federal statute constitutes a “legalistic pebble” and that, when the court requires obedience to the statute, it is engaged in a “legalism.” At the very least your statement reflects a profound disrespect for the laws of the United States.

In an Editor’s Note following Owen’s letter, the *Star* responded that there was “no arguable statutory basis” for the ruling. The recent *Star* editorial had urged Secretary Volpe to comply immediately “despite the superabundance of legalistic pebbles newly turned up.” The note continued:

But the basic congressional intent of the 1968 statutory provision involved here was, in fact, to command the immediate construction of the Three Sisters Bridge. To imply otherwise, or to imagine that this new court ruling has not made compliance with that congressional command immeasurably more difficult than before, is absurd. [Owens, Robert B., “The Court and the Bridge,” and Editor’s Note, Letters to the Editor, *The Evening Star*, October 22, 1971]

On October 22, ECTC held a press conference at the District Building to accuse Representative Broyhill of a conflict of interest in supporting the Three Sisters Bridge. The Reverend Gipson said that Representative Broyhill and his wife had purchased an apartment complex the previous summer at 1600 North Pierce Street in Arlington for \$250,000 and that the Broyhill family owned several warehouses near North Quincy Street in Arlington. The apartment complex, the Reverend Gipson said, “will be torn down and the property redeveloped for a big profit” as a result of construction of I-66. The warehouses, located where I-66 was supposed to cross North Quincy Street, would also increase in value.

“Maybe Broyhill is not as concerned for the people as he is for his own pocketbook,” the Reverend Gipson said. He speculated that the Congressman was supporting construction of the Three Sisters Bridge because the traffic it would handle would necessitate construction of I-66.

A spokesman for Representative Broyhill said his only motive was to free \$72.5 million in Metro matching funds that Chairman Natcher was holding hostage. He did own the apartment complex,

but the Congressman had “no knowledge” of the warehouses. The spokesman characterized the charge as “garbage.” [Barnes, Fred, “Broyhill is Accused of 3 Sisters Span Conflict of Interest,” *The Evening Star*, October 23, 1971; Scharfenberg, Kirk, “Foes Charge Broyhill Stands To Profit From Three Sisters,” *The Washington Post and Times Herald*, October 23, 1971]

ECTC participated in a celebration of the court ruling on October 30 at the site of the Three Sisters Bridge project. Sammie Abbott told 60 or so celebrants that the ruling was “a victory in a long battle which has been declared against the people by the federal government with such programs as urban redevelopment and the highways.” He added, “Without the fear of civil disobedience, we would not have victorious lawsuits and we wouldn’t have the response from political individuals.” He and others who spoke at the rally indicated they planned to begin protesting plans for high-rise redevelopment around Metro stations. [“Foes of Three Sisters Celebrate Court Ruling,” *The Sunday Star*, October 31, 1971]

On November 4, Judge MacKinnon issued what the *Star* called a “blistering dissent” to the majority finding. He explained that governmental authorities “concluded that it is necessary to erect the Three Sisters Bridge across the Potomac River.” The plaintiffs, whatever their views on the need for the bridge, did not “seriously attack the basic merits of the overall program to improve highway traffic congestion.” Instead, they based their “opposition on an alleged failure to comply with certain procedural requirements imposed by statute which are applicable to the planning and construction of the project.”

Thus, the need for the bridge was not at issue in the case. Nevertheless, because Judge Bazelon’s opinion involved “an overly technical, legalistic and impractical interpretation” that contained “gross distortion,” the three-judge panel “exceeded its authority” in ruling against construction of the bridge.

Judge MacKinnon observed that “the Constitution vests Congress with complete control over the entire area of the District of Columbia for all governmental purposes”:

Pursuant to this assignment of responsibilities, Congress and its members have taken cognizance of the need for transportation facilities in the District of Columbia and the surrounding metropolitan area. To meet the area’s transportation needs it has authorized the appropriation of federal funds for the construction of a metropolitan subway system and has also authorized and directed that substantial additions be constructed to the thru-highways in the area. These additions include the erection of the Three Sisters Bridge. In this connection it was the decision of Congress that the subway construction and the additional highways (including the Three Sisters Bridge) would be built contemporaneously. This conclusion follows from the facts of the contemporaneous appropriations and the express congressional direction that work on the Three Sisters Bridge begin within thirty days after the congressional enactment (82 Stat. 815).

The panel’s majority decision negates “the extensive findings of the trial court . . . and the practical trial judge who heard all the witnesses in an extensive 12-day hearing, received 1,025 pages of depositions and then thoroughly documented his findings in an opinion covering 40 printed pages.” As this extensive trial court review suggests, the location of existing

highways and bridges, the area's topographical features, and the desire to alleviate traffic congestion "within the parklands on both sides of the river . . . might compel the conclusion that as a matter of sound *highway* engineering the only feasible project that would correct the congestion would be to erect a bridge in the vicinity of the Three Sisters Islands."

Judge MacKinnon also discussed whether Chairman Natcher forced Secretary Volpe to approve the bridge "without regard to its merits." Judges Bazelon and Fahy concluded that Secretary In that regard, the trial court found that Chairman Natcher indicated he would withhold appropriations until the District of Columbia complied with Section 23 of the Federal-Aid Highway Act of 1968 by getting the freeways underway "beyond recall":

Rep. Natcher was thus merely attempting to see that the laws enacted by Congress were carried out. It is not unusual or improper for Congress to withhold appropriations until its laws are complied with.

Under the circumstances, Secretary Volpe had to consider Chairman Natcher's position, but that did not mean the bridge decision "must necessarily have been improperly influenced by that information." In fact, Secretary Volpe stated that no "outside factors" influenced his decision on the bridge:

Indeed, it would be impossible and contrary to law for any secretary of transportation to pass on any major highway project in the District of Columbia without being familiar with and considering its effect and relationship to the subway construction program.

That is true in this case because the "realities of the situation" are that under the Constitution, Congress "has a wider voice in the affairs of the District of Columbia than it does in the affairs of states or other cities." Under that authority, Congress took "a firm hand" in regard to the District's highway program:

But no Congressman has any weight in such matters beyond his ability to speak for Congress and to the extent that he does speak for Congress he is only calling attention to the expressed will of Congress.

Congress has spoken in this matter. In Section 23 of the Highway Act of 1968 it ordered the erection of the Three Sisters Bridge, not as a single project but as a part of the broad highway improvement program for the Washington Metropolitan area. And Congress and those who speak for it have a continuing interest in seeing that the expressed will of Congress, as clearly enunciated in a statute signed by the President, be carried out.

Judge MacKinnon added:

There is no basis in law or fact to overturn an administrative decision of this nature because of alleged extraneous pressure of this sort. The facts of political life are such . . . that it is idle to pretend that our administrative officials . . . should make their decisions in a vacuum.

He also was critical of the ruling's reference to the absence of an administrative record. Judge Bazelon had ignored "the fact that the Secretary himself made the vital . . . determinations, having personally involved himself":

After all, the statute places the duty upon the secretary to make such determinations and his decision should not be set aside because of the absence of documents which are not necessary or normal when he personally exercises that responsibility

We respectfully submit that judicial review does not include that which basically amounts to a 'second-guessing' of his determinations.

The ruling's disbelief of Secretary Volpe's testimony reflected Judge Bazelon's "colossal distrust of government officials":

Judge Bazelon . . . reflects an overly suspicious view with respect to the effect of so-called political pressures. An individual's attitude toward this type of question is closely related to his individual trust in human beings – whether he believes a human being can resist improper pressures As I read Judge Bazelon's opinion . . . it is his individual view that such pressures are irresistible.

Moreover, Judge MacKinnon was skeptical that a lengthy administrative record would have prompted Judges Bazelon and Fahy to change the ruling. If Secretary Volpe compiled such a record retroactively, Judge MacKinnon doubted that the "more extensive administrative record would cause them to believe him in the future."

As for the air pollution question, "It seems obvious to me that the bridge would not create any air pollution and that to the extent that it relieved highway congestion on the present highways in the parks it would decrease air pollution."

Judge MacKinnon's added that Judges Bazelon and Fahy "ignore the fact that the so-called parklands involved on the Virginia side of the river are all in the George Washington Memorial Parkway," itself a product of congressional action. The fact that this elongated park includes a highway "makes it practically impossible for any proposed bridge in this area to be erected without affecting some of its lands." In fact, some of the congestion the Three Sisters Bridge was intended to relieve "is traffic over the automobile highways within the parkway itself."

All things considered, Judge MacKinnon was skeptical that the U.S. Court of Appeals would ever approve construction of the Three Sisters Bridge. He concluded:

A court that has gone to the great extremes that this court has . . . can always find reasons satisfactory to it for avoiding practically any subjective decision required with respect to the bridge. It may well be that the only hope to carry out the expressed will of Congress lies with the Supreme Court. [District of Columbia Appropriations, 1972, *Congressional Record-House*, December 2, 1971, pages 44264-44266; Barnes, Fred, "Span Up to High Court?" *The Evening Star*, November 5, 1971; "Bazelon's View Held Slanted," *The Washington Post and Times Herald*, November 6, 1971; Green, Stephen, and Barnes,

Fred, "Subway Stalled, High Court Plea Hinted," *The Sunday Star*, November 7, 1971, italics in original]

A *Star* editorial put it this way:

Thus, in dissecting findings with which he disagrees, MacKinnon accuses his colleagues – and Bazelon in particular – of “gross distortions,” of “straining at gnats” to “invent new requirements,” of a “partial and slanted view of the facts,” of an “overly technical, legalistic and impractical interpretation” of the law, of electing to disbelieve Volpe’s testimony “for no reason more substantial than their own innate suspicion.”

Judge MacKinnon was, of course, in the minority and his dissent did not alter the ruling. The editorial concluded, however:

Since the Bazelon-Fahy edict came down October 12, Volpe and District officials have been flopping around like fish in a bucket, while the bridge, not to mention the District’s subway funds, remains in limbo. The question of an appeal to the Supreme Court, reportedly under study, should be resolved immediately, in the direction suggested by MacKinnon. [“The Only Hope,” *The Evening Star*, November 7, 1971]

Freeway and Metro Linkage Tightens

The prospect for prompt release of the District’s Metro funding was, according to Chairman Sickles, dimming. He described himself as being “as optimistic as anyone . . . up until the last few days.” The ruling by the U.S. Court of Appeals on the Three Sisters Bridge raised these new doubts.

Jack Eisen explained that according to anonymous sources, Chairman Natcher had changed his reason for refusing to release the Metro funds:

Previously, he has blamed the city and the federal Transportation Department for failing to push ahead with interstate freeway projects, notably the Three Sisters Bridge, that Congress sought to require in the 1968 Highway Act.

After the U.S. Court of Appeals blocked bridge construction in a recent decision that criticized his money-withholding tactics, Natcher reportedly began telling his colleagues that the court has directly challenged the power of Congress.

In Chairman Sickles’ view, Congress would release the funds only if another floor fight occurred, this time with a different outcome. [Eisen, Jack, “Fund Hope For Metro Grows Dim,” *The Washington Post and Times Herald*, November 7, 1971]

Representative Obey agreed that Judge Bazelon’s ruling, which contained “intemperate and gratuitous language” critical of Congress, had inflamed the situation. In a statement issued on November 12, he said “the D.C. subway is . . . virtually dead and can be rescued only by President Nixon.” He continued:

It is my judgment that without direct, obvious and forceful White House involvement, any effort to pry loose the money for Metro will meet with certain House defeat – by a wider margin than before

Because of excesses in Judge Bazelon’s opinion, the question of money for the Metro system has been converted in some minds from a simple question of the subway to a question of Congress vs. the courts. That is unfortunate and unnecessary and misleading. It has made it more difficult than ever to win enough House support to release federal dollars for Metro.

Eisen, reporting on the statement, concluded his article, “Obey, who lives in Arlington, stressed that he hopes Three Sisters will never be built.” [Eisen, Jack, “Metro Fate Declared Up to President,” *The Washington Post and Times Herald*, November 13, 1971]

Around this time, reporters discovered that in May, the VDH had filed a five-page draft of an EIS on I-266 with the Council on Environmental Quality. The report became public too late for consideration by the Court of Appeals.

The EIS was favorable to I-266 as well as the Three Sisters Bridge. I-266 would improve the environment along Lee Highway in the Rosslyn-Key Bridge area of Arlington “by reducing noise, air pollution and traffic congestion.” In addition to these benefits, “Urban residents will be able to enjoy nature.” Moreover, I-266 and the bridge would have “practically no detrimental effect along the proposed route.”

The EIS acknowledged “the need for acquiring 31.6 acres of parkway land for road construction,” land that would be replaced on an acre-by-acre basis. This taking “cannot be avoided,” but said construction would “only disturb a small portion of the 31.6 acres with the majority of the existing landscaping left undisturbed.” It continued:

Moreover, the proposed system of trails for hiking and biking is entirely compatible with, and will provide access to, the largely undisturbed parklands. Urban residents will be able to enjoy nature

This route is unique in the fact that it is compatible with the parkway surroundings and enhances man’s environment with the multiple use of the right of way by providing trails and retaining open spaces.

It dismissed citizen objections “focused on the environmental impact of the project relative to noise and air pollution and the use of parklands”:

The relatively low elevation of the I-266 roadway in the Spout Run Valley with respect to adjoining area reduced human exposure to noises emanating from the project. Although additional vehicles are projected in this transportation corridor, the higher and more uniform speeds point to a pollution abatement benefit.

I-266 was a “vital segment” of the area’s transportation system. VDH conceded that this judgment could prove wrong, but I-266 should be built anyway:

The elements which go into highway construction cannot be classified as irreversible or irretrievable commitments of resources. If the facility is no longer needed as a transportation network or if a greater need arises for the area . . . the roadway can be converted to the needed land use.

The EIS did not cite sources or authorities for its claims.

VDH had distributed the short draft EIS in May to at least 18 State and Federal agencies for comment. As of November, when reporters inquired about the newly discovered draft, VDH said that only two agencies, COG and the U.S. Department of Health, Education and Welfare, had replied and neither disagreed with the statement. As of the date of the inquiry, neither FHWA nor EPA had responded. VDH had not prepared a final EIS. [Barnes, Fred, "3-Sisters Bridge Lauded by State," *The Evening Star*, November 11, 1971; Ringle, Ken, "No Agency Challenges State on Plan for 3 Sisters Bridge," *The Washington Post and Times Herald*, November 13, 1971]

(During this period, FHWA and the State highway agencies were adjusting to NEPA's environmental review requirements. Initially, highway officials believed the environmental review requirement did not apply to them, but when they learned that it did, they needed several years to adjust to the law. Efforts such as VDH's five-page draft EIS reflected the uncertainty about the effect of the law as well as the certainty of the road builders in the validity of their work.)

While I-66 appeared to be advancing, prospects for I-95 inside the Capital Beltway in Maryland were dimming. William W. Gullett, Prince George's County's County Executive, declared on November 8 that he would oppose the extension to the District line. He told COG that he hoped a resolution introduced before the county council opposing the route would be approved.

Under State law, each county had to certify its road needs to the General Assembly every 2 years. Gullett acknowledged that the resolution, if adopted, would not legally kill I-95, but he hoped it would exert a strong political influence. "It worked for Montgomery County when it knocked Interstate 70S out of its plan. It could do the same for us."

An affiliate of COG, the Metropolitan Congress of Citizens, had adopted a resolution calling for a complete study of the need for I-95 and whether Metro could provide sufficient service for the affected area. Gullett cited the resolution, adding, "I don't see how we can continue to be cut up by these superhighways."

Although Secretary Hughes had agreed to drop Montgomery County's segment of I-70S from the State's plans, he had declared the I-95 link extension essential. A spokesman for Secretary Hughes said the county's actions would "have no legal effect at all," because under State law, county positions were binding only on non-Interstate roads. He agreed, however, with Gullett that it might result in political fallout. [Eisen, Jack, "Gullett Opposes Extension of Rte. 95 Into D.C." *The Washington Post and Times Herald*, November 9, 1971]

In a News Analysis, the *Post*'s Eisen reported on November 14 that Metro, "buffeted from the outset by one crisis after another, is heading into another period of political and financial uncertainty." Representative Obey declared Metro "virtually dead" and said that only the President's intervention could save it. Egil Krogh, President Nixon's deputy assistant for national capital affairs, agreed that Metro was "in serious straits," chiefly because of congressional interference. The White House, he told Eisen, was undecided on what to do.

General Graham thought "dead" was premature:

"Most of us feel we are going to build a usable system," Graham said, "but we believe that Congress is making it impossible to build the system in the agreed-upon time (by 1979) for the estimated price," now \$3 billion

Money is Metro's recurring problem. Fund crises have come with such regularity that some Washingtonians, now seeing much of downtown torn up by subway construction, are prone to think someone was falsely crying "wolf."

The crises were, nonetheless, real. For example, if President Nixon had not intervened with Chairman Natcher to promise construction of the Three Sisters Bridge, "there is doubt the groundbreaking on Dec. 9, 1969, would have occurred."

As noted earlier, Chairman Natcher and other Members of Congress saw Judge Bazelon's decision as a judicial challenge to congressional prerogatives:

According to Obey's statement the other day, this "unfortunate and unnecessary and misleading" interpretation seems to be persuasive.

Thus far, \$586 million had been used on Metro:

According to general manager Graham, the \$586 million now obligated or committed to the Metro program (chiefly in real estate, plans, management costs and construction [sic]) would produce by 1974 a line about five miles long from Rhode Island Avenue NE to Dupont circle. It would have tracks and electrified power rails, but no cars, escalators or station air-conditioning.

There also would be a tube, with neither tracks nor power rails, from downtown Washington beneath the Potomac River to Rosslyn.

Of the money put into Metro so far, \$133 million has been contributed by the Maryland and Virginia suburbs from tax funds and bond-sale proceeds.

This was provided in expectation that the lines eventually will reach out from the city, but the money is actually being spent in the city. A failure to reach the suburbs would create formidable legal and political problems.

Now that construction was underway, another problem had arisen – minority participation in the contracts:

Added recently to Metro's money problem is a growing dissension in the District over demands by blacks for the award of one-fourth of all construction contracts to minority-owned firms. A coalition that includes two members of the D.C. Council [the Reverends Jerry Moore and Channing Phillips, both African-American] threatened last week to lead a physical disruption of subway work if the demands are not met.

This emotion-charged issue confronts the Metro board with "a crisis of no mean proportions" that could affect the financial issue, Virginia director Herbert E. Harris declared.

"We have just had a situation thrown down to us that, if people are unbending, can't be solved," Harris said. This, he declared, provides further ammunition to Metro's opponents on Capitol Hill. Metro Chairman Sickles agreed.

Eisen continued:

The blacks say they have been frozen out of the nation's economic mainstream by centuries of racism, and that they deserve a share of the Metro action in proportion to their numbers in the community. Some say the subway should not be built if it doesn't achieve black economic development.

The white majority on the Metro board and the agency's staff say they want to eliminate all barriers to black participation, but that the elimination of color-blind competitive bidding would be illegal, costly and an invitation to corruption.

With that new issue, congressional blockage of funds, Virginia and Maryland officials threatening to withhold their contributions in the absence of District matching funds, Metro's future was murky. However, "an even bigger financial time bomb" awaited Metro:

The system's completion hinges upon a federal guarantee of \$1.2 billion in the Metro authority's own future bonds. Legislation to provide the guarantee must be passed by the same Congress that is now holding back money Metro says it needs immediately. [Eisen, Jack, "Metro Digs Deeper Into Uncertainty," News Analysis, *The Washington Post and Times Herald*, November 14, 1971]

As Professor Schrag wrote in his Metro history, unemployment was a severe problem in a city with little heavy industry and its commercial streets gutted by the 1968 riots after the assassination of Dr. King. Construction was "the city's largest source of blue-collar jobs, but it had long been dominated by segregated unions." Minorities owned few construction firms:

Metro did little to change this pattern; when WMATA began signing contracts, more than 98 percent of construction dollars went to white-owned firms. And while a sizable majority of workers on Metro projects were black, they were clustered in the lowest skilled positions, laborer and miner. Those few minority firms that did get contracts were mostly employed in the low-paying, unglamorous task of hauling dirt away from excavations.

The Reverend Moore “agreed that Metro should provide jobs and careers for impoverished minorities, even if that meant Metro would cost more to complete.” He wanted at least 25 percent of all contracts to go to minority-owned firms. This idea did not go over well with WMATA. “Politicians from the majority-white suburbs held to the WMATA compact’s requirement that contracts go to the lowest qualified bidder.” They were, suburban officials said, contributing to WMATA for construction of a subway, not social justice for District residents:

They also feared that any weakening of the low-bid procedure might open the door to the sort of cronyism that had inflated the costs of public-works projects since the days of Boss Tweed and before. Both the Maryland and Virginia legislatures rejected bills that would have allowed for the set-asides. The staff also resisted. In May 1970, for example, the Authority’s assistant comptroller warned of a potential “collapse of budgetary integrity” should conflicts over “broad sociological aspects of the District of Columbia” distract the Authority from its “basic mission.”

WMATA sought compromise:

In late 1971 [Graham] established – somewhat reluctantly – an Office of Minority Development to recruit minority firms, with Charles Dowdy, an African American engineer, as its head. WMATA boasted in 1971 that minorities constituted 57 percent of the construction work force.

Despite union claims of having difficulty finding enough skilled minority workers, “Graham’s compromises held, albeit shakily” through 1973. [Schrag, pages 162-164]

On November 18, Representative Broyhill returned to the White House for a meeting with President Nixon. After the meeting, the President issued a statement urging action on highways and the Metro system in the Washington area:

Late in its second century of life as the Nation's Capital, the Washington metropolitan area is suffering severely from hardening of vital transportation arteries. The nearly

3 million people in the District of Columbia and its Maryland and Virginia suburbs are acutely aware of this worsening problem as they struggle to move about the area pursuing business or pleasure or the work of government. So are the 18 million visitors who come here each year from across the country and around the world, expecting magnificence –

and finding it, but finding also, in the simple matter of getting about the city, more frustrations than they deserve in the capital of a nation that has sent men to the moon.

In recent months, though, Washingtonians have also become increasingly aware that something is being done about the transportation tangle. METRO – our superb area wide rapid rail transit system of the future – is already a fact of life for all who use the downtown streets, as construction pushes ahead on the first 8 miles of the project. Streets are dug up, ventilation shafts have been dropped, tunnels are being bored. Over \$863 million has already been committed by the eight participating local jurisdictions and the Federal Government. At the same time, a coordinated interstate highway system for

the region is progressing toward completion, as many thousands of detouring commuters know.

We need these freeways, and we need the METRO – badly. I have always believed, and today reaffirm my belief, that the Capital area must have the balanced, modern transportation system which they will comprise. Yet now, almost incredibly, in light of the manifest need for both of them, the future of both is jeopardized by a complex legal and legislative snarl.

To save them, here is what has to happen:

1. The local highway actions mandated by the Federal-Aid Highway Acts of 1968 and 1970 must go forward immediately.

The question whether the District of Columbia and the Federal Government, in their efforts to carry out this mandate, are presently in compliance with statutory requirements has been the subject of lengthy litigation. The U.S. Court of Appeals for the District of Columbia has recently ruled that they are not yet in compliance in the case involving the Three Sisters Bridge. But I am convinced that they are. Accordingly, I have ordered the Attorney General to proceed with the filing of a motion for rehearing en banc before the Court of Appeals [all the judges instead of the three-judge panel]. I have also instructed him, if that fails, to file a petition for certiorari with the Supreme Court.

2. The METRO system must move toward completion and operation as rapidly as possible.

Not only do delays in METRO work cost taxpayers heavily; they might even erode confidence and cooperation seriously enough to consign the entire project to an early grave, with all the sad consequences that could have for metropolitan development in the years ahead. I strongly urge the Congress, therefore, to take appropriate action at once to end the present delay and to prevent any more such derailments of METRO progress.

We have come to a critical juncture. Obedience to the law is at stake. A huge investment is at stake. The well-being of the Capital area is at stake. It is time for responsible men to join in responsible action and cut this Gordian knot.

Representative Broyhill told reporters that he had been working with White House staff on the statement for 3 weeks. He added:

This is the thing a lot of people have been seeking. I don't know of anything else the President can, or should, or needs to do.

I don't know what else Congress can expect of the chief executive. He can't go out there and put on his overalls and start digging himself.

He hoped the President's statement would inspire another attempt to overrule Chairman Natcher on the House floor.

Chairman Natcher refused to talk with reporters about the President's statement. In closed session earlier in the day, the Natcher subcommittee had again refused to include the District matching funds in its District appropriations bill.

Chairman Inouye, however, said, "This is what I believe Mr. Natcher has been waiting for. I am now more than convinced that the necessary funds to carry on construction of the Metro on schedule will be appropriated in this session of Congress."

Before the President released his statement, Representative Giaimo told reporters he would lead another floor fight, but was not optimistic without support from the President and the Democratic House leadership.

Mayor Washington said, "We are delighted at the President's call for responsible action to permit Metro to proceed."

Senator Mathias also welcomed the President's "strong statement," but thought he had a plan that would bring more immediate results. On November 16, he had proposed to allow the city to issue \$160 million in tax-exempt bonds to cover the city's matching share through 1977 and pay for highway projects. The bond revenue would go into a transportation trust fund that would also receive money from auto registration, excise taxes, and the city's gas tax. He said at the time that his proposal would "extricate the Congress from a legislative snarl which has become as tangled and unhealthy as the city's daily traffic jam."

He added, "We cannot legislate an end to litigation. The current cases and perhaps others yet unfiled will work their tortuous way through the courts whether or not the Metro is being built outside the courthouse door." The Mathias amendment had been included in the Senate's pending District revenue bill.

Senator Spong also was pursuing legislative action. He introduced a rider that he wanted to add to the District revenue bill reiterating the 1966 law guaranteeing the District its matching funds and the National Capital Transportation Act of 1969 authorizing funds for the 98-mile Metro system. "It is a way of assuring the people of this area that . . . the Congress is not going to turn its back on the subway [and] is not going to ignore the obligations it has assumed." [Moore, Irna, "Nixon Urges Hill to Free Metro Funds," *The Washington Post and Times Herald*, November 19, 1971; Green, Stephen, "Nixon Pushing for Bridge, Release of Subway Funding," *The Evening Star*, November 19, 1971; Moore, Irna, "Subway Funding Pushed," *The Washington Post and Times Herald*, November 16, 1971]

The expectation was that Representative Giaimo would introduce his amendment, this time with strong support from the President. According to Schrag, "the White House staff helped Giaimo mobilize a bizarre, bipartisan coalition of liberal Republicans and Democrats, White House loyalists, and the Congressional Black Caucus, all to take on Natcher." [Schrag, page 140]

The *Post* and *Star* welcomed the President's intervention. "Such a strong plea to Congress from the President," a *Post* editorial said, "ought to carry great weight as the Metro funding question comes before the House Appropriations Committee, and eventually to the House floor for a

vote.” While the President’s court actions regarding the Three Sisters Bridge were welcomed, “The next move, in good faith, is up to Mr. Natcher and the Congress.”

The *Star* appreciated the President’s timing. Chairman Natcher’s subcommittee had “decided once again to maintain a strangle hold on District subway funds,” while action in the Senate on the District’s revenue bill “was similarly tied in knots as members of that body considered alternative legislative maneuvers to try to free the subway dollars.”

Because Judges Bazelon and Fahy had “dredged up a host of new legal obstacles against the bridge,” the President’s decision to move on the legal front was an action “only the President could take.” In view of the President’s order to Attorney General Mitchell, “There is surely no possible justification for Representative Natcher and his House colleagues to refuse any longer” to release the Metro funds. Whether the “tortured reasons” of Judge Bazelon’s ruling prevail was impossible to predict, but the President’s actions represented the “clear evidence of good faith” that Chairman Natcher said he was seeking. “His obligation now is to make good his own pledge that in such an event the critical subway freeze would immediately end.” [“The President’s Welcome Moves for Metro,” *The Washington Post and Times Herald*, November 19, 1971; “It’s Natcher’s Move,” *The Evening Star*, November 19, 1971]

One day after the President’s statement, the Justice Department announced that it had begun drafting its petition asking the full nine-judge U.S. Court of Appeals to rehear the Three Sisters Bridge case. Work had begun several days earlier when the White House had informed the Justice Department of the President’s planned decision.

The Senate, by voice vote, approved the District revenue bill on November 20. It included Senator Mathias’s amendment as Title X – Establishment of the District of Columbia Transportation Trust Fund. The Senator told his colleagues that Title X “would place the District’s contributions to Metro on a virtual automatic basis and would end the roadblocks, delays, and uncertainties which have brought this vital mass transportation system to the current perilous point.” The measure, he added, was consistent with the President’s statement the previous day in support of Metro:

It would enable the District of Columbia to obligate local revenues – not Federal funds, but the fruits of local taxation – to pay the District share of the Metro without delay. At the same time, it also insures that, as various essential highway and street projects are approved in accord with applicable laws, the funds for the local share of those projects will also be available. In short, this proposal gives us a new road to the balanced transportation system which the people of this region need and want.

He hoped the Senate would approve the revenue bill, including Title X, because if “we do not get the Metro moving now, it may never roll in our time and perhaps never in our children’s time, nor in our grandchildren’s time.”

The Senate added the amendment that Senator Spong had introduced reaffirming the congressional obligation to ensure the District can participate in financing the Metro system. He explained:

The communities of Virginia and Maryland have put up their money to build the system, and it is not right for the share of the District of Columbia to continue to be withheld. The matter of the Three Sisters Bridge is in the court. It is a matter to be decided by the courts. It is not proper for Metro to be held as hostage for highway construction. ["Additional Revenue for the District of Columbia," *Congressional Record-Senate*, November 20, 1971, pages 42500-42502]

Cutting the Gordian Knot

The Justice Department, joined by the District corporation counsel, filed papers with the U.S. Court of Appeals on November 23 seeking review by the full court of the three-judge panel's decision on the Three Sisters Bridge. Judge Bazelon's ruling, the filing said, had "overstepped the permissible bounds of judicial review," relied on "pure speculation," and made it "virtually impossible to build this bridge as directed by Congress."

Regarding the influence of Chairman Natcher on Secretary Volpe, the Justice Department said:

There is no basis in law or fact to overturn an administrative decision of this nature because of alleged extraneous pressure of this sort. The facts of political life are such . . . that it is idle to pretend that our administrative officials . . . should make their decisions in a vacuum.

Judge Bazelon, in citing the absence of an administrative record, had overlooked the fact that Secretary Volpe's approval was "due to the fact that the Secretary himself made the vital . . . determinations, having personally involved himself We respectfully submit that judicial review does not include that which basically amounts to a 'second-guessing' of his determinations."

The Bazelon decision, which expressed doubts about Secretary Volpe's truthfulness and impugned his credibility, would "in the extreme, deprive an administrator of absolute control over the lawfulness of his own actions" because those actions would be "vulnerable to circumstances completely beyond his reach." [McCombs, Philip A., "U.S. Attacks Court Ruling on 3 Sisters," *The Washington Post and Times Herald*, November 24, 1971; "U.S., D.C. File Please on 3 Sisters Ruling," *The Evening Star*, November 24, 1971]

While the Appeals Court considered the appeal, officials focused on the pending vote, on November 29, of the House Committee on Appropriations on the District revenue bill. COG was lobbying the Representatives from the Maryland and Virginia suburbs who had voted against the Giaimo Amendment in May. "Many of the congressmen who voted against Metro last time have discovered they're not living on an island," Maryland Delegate Doctor told reporters at a press conference in the District Building. COG president Francois added:

People all across America are watching. This is the ultimate confrontation between the highway interests and those who favor a balanced transportation system.

Asked if the lobbying efforts had convinced any Representatives to support release of the funds, Doctor could not provide a number. "We just feel they've been favorably impressed. The

President's influence has been quite pervasive." [Meyer, Eugene L., "Hahn Tells of Effort for Metro Funds," *The Washington Post and Times Herald*, November 28, 1971]

Despite last-minute lobbying by the White House, the Appropriations Committee voted 31 to 13 to continue withholding \$72 million in subway funds for FYs 1971 and 1972. Reporting on the vote in the *Post*, Irna Moore wrote:

Sentiment in the Appropriations Committee for upholding Natcher appeared to hinge on two elements. One was the feeling, backed by years of tradition, that the Committee is the most powerful one in Congress because it controls all spending and that the precedent of overturning what one Subcommittee chairman wants could lead to withholding projects wanted by other members

The other element was cited by Rep. George Mahon (D-Tex.), chairman of the Committee, who said he felt that "the will of Congress has been flouted by the District's delay in building freeway projects specifically ordered by earlier acts of Congress.

The vote on the provision was a rejection of Representative Giaimo's attempt to restore the Metro funds. He indicated he would take the fight to the House floor again and predicted his amendment would "do much better than we did in the Committee."

Chairman Natcher told reporters he had "no comment whatsoever."

White House aides, according to Moore, "spent the day talking to key congressmen just off the House floor and outside the committee room." The aides remained optimistic about the floor fight and promised "an all-out effort on the floor, against some of our own leadership if necessary."

This was a reference to Minority Leader Ford's decision to oppose the Giaimo Amendment. Representative Obey told reporters the amendment "hasn't got a snowball's chance in hell unless Ford and the Republicans show some support." The ominous fact was that of the 13 members of the Appropriations Committee who voted for Representative Giaimo's effort to restore the funds in committee, only two were Republicans. They were Representatives Conte and Howard W. Robison (R-NY). [Moore, Irna, "Metro Funds Lose, City Budget Pared," *The Washington Post and Times Herald*, November 30, 1971]

This latest effort "to strangle Metro," a *Post* editorial said, "may end up as the most expensive (and cruel) tribute ever paid to the power of congressional politics." The committee had ignored President Nixon's plea and his "vigorous good-faith efforts" to show District compliance with congressional mandates, the support of nearly 3 million people in the Greater Washington area, and the \$863 million already committed to Metro construction. "Above all, never underestimate the power of a House Appropriations subcommittee chairman."

If Chairman Natcher's "traditional blackmail arrangement" succeeded, "Congress will see no reason to approve legislation to provide a federal guarantee of \$1.2 billion in future bonds for Metro – because Metro will already be a bad risk." Time was up for finding ways "to satisfy whatever it is that Mr. Natcher happens to demand the next time the funding issue comes up."

Somehow, “responsible men and women” in Congress must act to advance Metro. [“The Vote to Strangle Metro,” *The Washington Post and Times Herald*, November 30, 1971]

With the deadline nearing for the District’s and Secretary Volpe’s reports on the District’s expressway network, the consultants hired by the District reported their recommendations on November 29. The team of De Leuw, Cather Associates and Harry Weese and Associates recommended another 11 miles of freeway construction at an estimated cost of \$665 million.

The report recommended abandoning the I-70S portion of the North-Central Freeway into Maryland, where officials had all but abandoned the route. The eight-lane I-95 segment of the North-Central Freeway would follow the planned alignment along the Baltimore and Ohio Railroad tracks north from New York Avenue under Rhode Island Avenue, NE. From there, it would become a depressed freeway decked to accommodate housing, a community center, and parking. It would continue in a depressed alignment in the vicinity of Catholic University east of the railroad and under the new Taylor Street bridge. Crossing to the west of the tracks, it would continue north before re-crossing to the east side of the tracks at New Hampshire Avenue. It would connect with the I-95/Northeast Freeway. This routing, as the *Post* explained, “violates the city council’s policy of building no more road gateways into the city.”

The consultants recommended a six-lane crosstown tunnel under K Street, NW., from Rock Creek to 7th Street. From 7th Street, the tunnel would run along New York Avenue in a depressed design with a surface deck. The project would include an interchange with the Center Leg Freeway.

The report focused on the Interstate segments identified in the 1968 and 1970 Highway Acts. The consultants identified other routes, not yet open, as “Committed Freeways,” including the Palisades Parkway and the Potomac River Freeway. They also assumed the eventual construction of I-66 in Virginia, I-695 (South Leg of the Inner Loop), and the Three Sisters Bridge, largely because of the congressional commitment reflected in the 1968 and 1970 Federal-Aid Highway Acts. In addition, the report endorsed the Industrial Highway link with the Baltimore-Washington Parkway and U.S. 50 (the Annapolis Freeway).

In this construction work, the report stated, the District should become the first American city to design and construct the roads as a pool for “social, environmental and economic development.” First, the city should solve its residential and employment relocation, planning, and legal problems. In designing the roads, the city should use decking, tunneling, and air rights construction for residential, educational, commercial, industrial, institutional, and park sites.

At the same time, the report estimated that the additional freeways would displace 1,085 families and 3,150 jobs. They also would require the use of 259 acres of land, including 35 acres of parkland.

Director Airis and Federal Highway Administrator Turner were reviewing the report and had no initial comment. Chairman Hahn scheduled 4 days of public hearings to begin December 13. [De Leuw, Cather Associates and Harry Weese & Associates, Ltd., *Summary of Comparison of Alternative Systems, District of Columbia Interstate System 1971*; Eisen, Jack, “Build 11 Miles

of Freeways, City Advised,” *The Washington Post and Times Herald*, November 30, 1971; Green, Stephen, “D.C. Consultant Backs Freeways,” *The Evening Star*, November 30, 1971]

As the House of Representatives began to debate the District of Columbia Appropriations Act, 1972, on December 1, White House Press Secretary Ronald L. Ziegler described the President as “very displeased” by the House Appropriations Committee’s decision to continue withholding the District’s Metro funding. President Nixon, Ziegler said, “wholeheartedly supports an amendment which will be introduced on the floor to restore the whole amount” of \$72 million. He “feels we are in a critical juncture and no further delays can be tolerated.” The White House support was especially aimed at House Republicans, 117 of whom had formed the biggest block voting against the Giaimo Amendment on May 11.

The White House, further, did not support a deal worked out between Chairman Natcher and Minority Leader Ford setting terms for releasing the funds. The two had met on the House floor for a private discussion before the committee’s vote:

According to two well-placed sources, Natcher told Ford he would recommend the release of D.C. contributions to the subway if the full U.S. Court of Appeals panel agrees to, and sets a date for, a rehearing on its order that halted work on the Three Sisters Bridge.

The source said Natcher agreed to make public this recommendation during the floor debate in hope of preventing the withholding of funds from being overturned.

An unnamed White House official dismissed the floor agreement. “Let’s face it, we’ve been down that road before, and it hasn’t produced anything.”

Representative Giaimo was equally dismissive of the floor agreement, but planned to introduce his amendment on December 2. He said, “We need help. If we don’t get help from the leadership, both Democratic and Republican, we won’t get the money.”

A spokesman said Minority Leader Ford still supported the Appropriations Committee’s decision, while an aide to Speaker Albert said he was “cogitating it right now.”

The liberal Democratic Study Group sent a “Dear Colleague” letter to all Members of the House urging them to support the Giaimo Amendment. “No constructive purpose whatsoever can be served by continuing to deny these funds.” The letter was an unusual step for the group, which normally addressed letters only to its members. [“Nixon: Restore Metro Funds,” *The Washington Post and Times Herald*, December 1, 1971]

The *Post* and *Star* left no doubt about their views. A *Post* editorial took its title from Ziegler’s comment, “No Further Delays Can Be Tolerated.” It referred to “deceptive rumblings about some sort of ‘compromise’ that is designed to persuade people” to go along with Chairman Natcher one more time. The idea that Chairman Natcher would release the funds as soon as the full U.S. Court of Appeals agrees to hear the Three Sisters Bridge case might be tempting to those who had not been “following all the complex tribulations” surrounding the funds:

But with Metro now on the verge of financial collapse, another excuse – based on a chancy challenge to the courts on a matter that shouldn't have anything to do with the fate of the rapid transit system anyway – cannot be risked.

What if the full court does not accept the case or does not do so promptly? What if the Supreme Court does not come to a quick decision? “What if Mr. Natcher doesn't like the decision, or decides that something else must happen before the Metro money is released?” The answer, “as the President warned,” is that “Metro will indeed die.” That was why more than 100 District, Maryland, and Virginia officials and business executives planned to be on Capitol Hill lobbying for the funds and why local jurisdictions were threatening to withhold their shares:

The responsible action for the House, then, is clear: Metro must be built, which means just what the White House said yesterday – that “no further delays can be tolerated.” [“No Further Delays Can Be Tolerated,” *The Washington Post and Times Herald*, December 1, 1971]

In view of the President's courageous defense of Metro, the *Star* found it “almost inconceivable – even given the Alice-in-Wonderland atmosphere which pervades the District's subway-freeway snarl – that the President might be deserted on this issue by his principal spokesman in the House, Minority Leader Gerald Ford.” Although “details of this weird political struggle are at the moment so fluid,” Republican Ford appeared to be leaning toward supporting Democratic Chairman Natcher instead of Republican President Nixon.

Although the House floor deal with Chairman Natcher may have seemed reasonable to the Minority Leader, the White House had not been fooled and instead had pledged that the White House staff would vigorously solicit support for the Giaimo Amendment. If House Republicans supported the Republican President, “those fighting for the subway funds feel there is a good chance of success.” In the absence of that support, “virtually no one is optimistic.” [“The President's Stand,” *The Evening Star*, December 2, 1971]

On December 1, President Nixon wrote to Speaker Albert about the pending vote. “I believe it is imperative that the District's contribution to the Washington area rapid transit system be included in that bill.” He summarized his recent actions regarding the court challenge to the Three Sisters Bridge, then said:

Meanwhile, if we are to meet the region's future transportation needs, the Congress must act *now* on the District's contribution to the Metro.

Such immediate action is crucial for two reasons. First, denial of these funds risks losing the cooperation of the seven local governments which have contributed regularly and in good faith to this project – a loss which might well be final and hence fatal to the entire Metro. Second, each week of delay increases the costs to the taxpayers of the region and the nation by at least \$1 million. Besides these increased costs, these delays needlessly postpone the day when this modern subway will begin to serve the area's residents and visitors.

In a reference to the Natcher-Ford floor agreement, the President said, “It is not possible to predict either the timing or the outcome of the court’s action.” With “the well-being of the entire Capital region” at stake, President Nixon urged Speaker Albert “to do all you can to keep Washington’s Metro system alive and moving forward.” [*Congressional Record-House*, December 2, 1971, page 44274, italics in original]

Speaker Albert rejected the direct appeal, instead backing the House Appropriations Committee bill. During his daily press conference, the Speaker said, “the House should not yield to the District or the courts.” He added:

I’m going to be for the subway. I’m also going to push for the building of the Three Sisters Bridge.

Minority Leader Ford also rejected the President’s appeal. “Nothing’s changed,” he said. A spokesman said Ford believed that “Mr. Natcher is an honorable man” who would keep his word on the compromise. House Republicans said they could not recall any other case where Ford had not supported President Nixon. However, the Minority Leader had called Attorney General Mitchell to request that he ask the Appeals Court to announce before the floor vote that it would rehear the Three Sisters Bridge case en banc. The Attorney General reportedly said he could not intervene, telling Representative Ford that the decision on the appeal and its timing were up to the court.

Supporters of the Giaimo Amendment planned to go ahead with the challenge despite these setbacks. Representative Conte said, “I think we’ve got a chance.” As far as he was concerned, “The so-called compromise is as phony as a \$3 bill.”

Representative Giaimo called the leaders’ support for Chairman Natcher “a classic case of the seniority system at work.” He and Representative Gude considered Minority Leader Ford’s call to the Attorney General an improper attempt to influence the judiciary. When Representative Gude spoke with the Attorney General about the matter, Mitchell had indicated that “all appropriate avenues” are being followed regarding the court review.

Senator Inouye promised that if the House rejected the Giaimo Amendment, he would go “to the ramparts” to protect the Senate position on the subway funds in the Senate-House conference.

Representative Giaimo admitted that without Republican support, the prospects for his amendment were doubtful, but he planned to introduce it anyway. [“House Leaders Reject Nixon Metro Fund Plea,” *The Washington Post and Times Herald*, December 2, 1971; Green, Stephen, “Ford Split With Nixon on Metro,” *The Evening Star*, December 2, 1971]

The Revolt, Part 2

On December 2, Chairman Natcher began the discussion of capital outlays for highways in the District of Columbia Appropriations Act, 1972, by repeating his support for a balanced freeway and subway system. “We must have a balanced system of transportation consisting of highways, express buses, and rapid rail transit.” He restated the history of his many efforts over the years to support highways and Metro.

As for Judge Bazelon's October 12 decision, Chairman Natcher said, "the chief judge of the circuit court of appeals went too far in his opinion" on the Three Sisters Bridge:

All through this opinion he sets up a series of hoops through which the Secretary of Transportation must jump, notwithstanding the fact that the Federal Aid Highway Acts of 1968 and 1970 are the law, and clearly indicates [sic] that after his instructions are followed there may be other suggestions made later on which would in effect continue to direct the District officials and the Secretary of Transportation to ignore and evade the Highway Acts of 1968 and 1970.

As a "coequal branch" of the government, "we have no right as members of Congress to stand by and permit the judicial branch of our Government to take over the legislative branch." The restrictions Judge Bazelon placed on the Secretary make it "virtually impossible to build the Three Sisters Bridge as directed by Congress." Respectfully, he said, he had to say that "Judge Bazelon has overstepped the permissible bounds of judicial review and substituted pure speculation which is not supported by the record now pending in his court."

Chairman Natcher quoted extensively from Judge MacKinnon's dissent, then said:

The Highway Acts of 1968 and 1970 must be complied with by the District of Columbia officials and the officials of the Department of Transportation. Both rapid rail transit and the freeway system must proceed together. There is a place for both a freeway system, a rapid rail transit system, and an express bus system in our Nation's Capital. We must have a balanced system of transportation in Washington D.C.

Mr. Chairman, we do not recommend construction funds for the Washington Metropolitan Area Transit Authority. [District of Columbia Appropriations, 1972, *Congressional Record-House*, December 2, 1971, pages 44261-44266]

His committee colleague, Representative Davis, said he was "in complete agreement" with Chairman Natcher's statements. Davis recalled that when the District city council adopted a resolution complying with Section 23 of the 1968 Act, "It looked at that time as if a quarter of a century of dilly-dallying and obstruction had come to an end." He added, "Unfortunately, this was not the case." The 1970 Act mandated studies of several freeways but did not alter the construction requirement of the 1968 legislation for the Three Sisters Bridge, the Potomac River Freeway, the Center Leg of the Inner Loop to New York Avenue, and the East Leg of the Inner Loop to Bladensburg Road.

Judge Bazelon's decision "went beyond the decision of the District in conjuring up obstacles, and singled out by name one of the most honorable and deservedly respected men who has sat in this House." He added that, "to single out Chairman Natcher as some of the newspapers, some of the uninformed egotists of radio and TV, and now the circuit court of appeals has done is an affront to the House in general and to the full Appropriations Committee and to our subcommittee in particular." He reminded his colleagues that the District Appropriations Subcommittee was not "a one-man subcommittee" and that the subcommittee, the committee, and the entire House had approved Chairman Natcher's insistence on a balanced transportation system.

Meanwhile, those who support the subway “are still doing their best to sabotage the freeways, any freeways for the Washington metropolitan area.” He quoted from the recent consultants’ report:

As meetings progressed it became apparent that several factors hindered constructive communication and participation. Many citizens and community leaders had previously taken firm positions against freeways – they did not wish to discuss any new proposals that might weaken their antifreeway stand. In several instances residents who had agreed to hold meetings in their own homes later cancelled the meetings, saying that they had been influenced by those opposed to the freeways. Representatives of organized freeway opposition groups dominated at least two of the meetings that were held.

Representative Davis said that if “we are not going to completely capitulate to the obstructionists,” the freeways and subways “must go forward together.” That is all the subcommittee, committee, and his House colleagues have ever sought:

All we are saying is we must have, as the trustees of the mandate of this House, not just a directive, but assurances that the circuit court of appeals will set a definite date for rehearing, and thereafter that we have an expression of his confidence that the legal representatives will succeed in breaking the obstructive log jams on the freeways by the President of the United States. [pages 44266-44267]

Representative Broyhill asked if the President could do anything that would cause the subcommittee members to release the subway funds. When Representative Davis answered only “No,” Representative Broyhill concluded that the funds depended on action of the court.

Representative Davis clarified that they simply needed a date certain for the full court rehearing. If, Representative Broyhill asked, “Judge Bazelon wants to drag his feet and wants to play cat and mouse a little bit with the legislative branch,” would the House not be waiting for “the whim of the Chief Judge on the U.S. Circuit Court of Appeals in order to get subway funds appropriated”? Representative Davis said they were not “depending on his whim entirely” regarding the rehearing.

Mr. Broyhill of Virginia. So we have to wait on the action of the court, the judicial branch, in order to consider the release of the funds?

Mr. Davis of Wisconsin. We have not said that we have to wait for or to get a decision of the court as a condition here. All we have simply said is that we be notified – that is, that the Circuit Court has set a day certain. I am confident enough that Judge Bazelon’s decision will be reversed by a [sic] Supreme Court. I am simply saying, tell us – we have a date for a hearing.

Representative Broyhill asked about the conditions in “a behind-the-scenes compromise agreement that the funds would be released when a date was set for a hearing.” Representative Davis objected to the reference to “behind-the-scenes” but summarized the compromise as including the setting of a date certain for the hearing and a communication from the President

“that he believes a balanced transportation system is assured and requests the appropriation of funds on that basis.” [page 44267]

Minority Leader Ford intervened to say he supported Chairman Natcher’s position. He considered it “unfortunate, to say the very least” that despite the President’s and the Congress’s efforts “to enforce the several highway acts, we are thwarted apparently by an adamant attitude of one member of the Federal judiciary.” He continued:

It was amusing to me to read some reports in one of the local newspapers of a behind-the-scene secret meeting that the gentleman from Wisconsin, the gentleman from Kentucky, and the gentleman from Ohio, and I had to discuss a way in which we could help get the subway money and also proceed with the highway program.

I do not know how much more open such a meeting could have been held. About four rows behind the Democratic desk over there the four of us sat alongside one another and discussed how we could do our best to get the money available for the subway construction program, and in the best of faith – I guess in the eyes of everybody in the chamber – we came to a suggested program. As I understand that suggested program, the gentleman from Kentucky and the gentleman from Wisconsin agreed that if the Circuit Court for the District of Columbia would agree to a date certain to hold a hearing – just a hearing – that the recommendation would be made by this subcommittee for the release of all funds that have been requested by the President of the United States. I believe that is the understanding that we came to.

Minority Leader Ford understood that Judge Bazelon, as Chief Judge, could call for a hearing by the full court, but if he did not, a majority of the judges could do so:

I do not understand why a small group, or maybe one man in this court will in effect thumb the nose at the House of Representatives. If you ever read that decision by Judge Bazelon, I do not think a single Member of this body would have any respect for that decision. [pages 44267-44268]

Ford’s description of the agreement differed from what Representative Davis had said, leading to a discussion of exactly what the compromise was. The confusion prompted Representative Giaimo to say: “I am somewhat shocked . . . by some of the colloquy which we have just heard in this Chamber.” He disagreed with Judge Bazelon’s ruling and with court intervention in legislative prerogatives. It was, however, equally bad for the Congress to intervene in court affairs. Moreover, citizens have the right to petition the courts for redress of grievances. “As much as we may dislike it, there is nothing we can do about it.” However, Congress was doing something about the bridge and highway system by retaliating against the people of the District of Columbia “by saying, ‘No bridge, no subway,’ even though all of us in this House supported the authorization of the subway.”

Representative Giaimo said he supported the Three Sisters Bridge and the District’s Interstate System, but he could not agree with retaliation “on the defenseless people of the District of

Columbia.” He could agree that the District and the Department of Transportation had been dilatory in compliance with the 1968 and 1970 Highway Acts:

But this argument no longer applies. They are now in compliance. They have done everything that they can possibly do at the present time. The District government is ready to begin construction of the Three Sisters Bridge immediately upon allowance by the court to do so.

The Appropriations Committee had recognized the value of Metro by appropriating the Federal funds for its construction, but then had withheld the District matching funds that would allow use of the appropriated Federal funds:

Mr. Chairman, here we are, my friends, saying once again there is one other hurdle you have to jump before we give you the money for Metro. I will admit that the hurdles are getting smaller, but we are now saying that the appellate court set a date certain for rehearing en banc.

He asked Chairman Natcher and Minority Leader Ford if they insisted on anything beyond the settling of a date for the rehearing. Ford confirmed that was his only condition. Could the court take a year or so to set a date? Chairman Natcher responded, “Yes.”

Representative Giaimo said the problem in that event was the time needed to get another appropriations act through Congress releasing the funds. When the Minority Leader suggested that the delay might not be long – the court could set a date today, Representative Giaimo said “the court could have decided this matter in our favor also” but court actions were unpredictable. He did not want to put the court in the position of being able to dictate congressional actions by setting, or not setting, a date for an en banc hearing. [pages 44269-44270]

Representative McEwen rose in support of Chairman Natcher, saying “too much – far too much abuse – has been heaped on one man in this situation, and I refer to the gentleman from Kentucky.” President Nixon also did not deserve criticism; he was not a culprit:

The ones who are, do not seem to be the ones who get embroiled in it. I refer to the ones who have resorted to every devious trick, and scheme and device they could to thwart the will of this Congress – not the will of my good friend, the chairman of this subcommittee, not the Committee on Public Works, but this Congress and two Public Laws, one enacted in 1968 and one in 1970.

He rejected the notion that the end justifies the means. “We have seen a commission that approved a bridge, and thereby subway funds are appropriated. Then the commission immediately thereafter met and said, ‘No, we reverse our decision.’”

He did not share Representative Giaimo’s view that the District of Columbia was not at fault. The city’s support for balanced transportation, Representative McEwen said, was “like a boy who shot his father and mother, and then threw himself upon the mercy of the court because he was an orphan.”

Representative McEwen had been on the Subcommittee on Roads, Committee on Public Works, for 6 years. From that earlier position, he knew that \$20 million had been spent planning freeways, including 83 studies:

Everyone said we needed the highways, the Three Sisters Bridge, and the subway system and in that way and only that way can we have a balanced transportation system.

Well, I think we are only going to get that if we get the message out of here today, loud and clear, that now it is time for somebody else to move, and when they move – then we will move. I think it is no large price to pay for moving ahead on a balanced system to say that we will come ahead with the funds for the subway just as soon as the court agrees to a day certain to hear this case.

Compared with the courts, was the Congress “a helpless giant?” The 200 million people who voted for the 435 Members of the House “expect us to be concerned for compliance with the laws.” He concluded, “Our greatest strength, our marshals for enforcement, are the decisions we make on appropriations.” He would vote with Chairman Natcher. [page 44270]

Chairman Kluczynski said the Committee on Public Works fully supports a balanced transportation system for the District. (Chairman Blatnik, who had been hospitalized, asked Chairman Kluczynski to speak for him.) The highway and subway networks “cannot be separated one from the other because they were designed to complement each other.” The issue, however, was bigger than highways and subways:

Here we have defiance of the will of Congress. This cannot be tolerated, gentlemen. Where do we stand if we cannot be assured that the laws we passed are going to be carried out. The administrative bungling that has been thrust upon us in this instance is unbelievable. It must be corrected and drastic action is necessary.

They stood firmly with Chairman Natcher. [pages 44270-44271]

Representative Robert E. Jones, Jr. (D-Al.), the Acting Chairman of the Public Works Committee, argued that the city must have a concurrent transportation network of freeways and subway. “If we do not stand behind Mr. Natcher in his position, we are going to further delay, hamper, and destroy the public transportation accommodations for the people of this area.” The goals were clear, there was “no reason for dissidence and misunderstanding.” He hoped the House would “recognize the tremendous burden under which the gentleman from Kentucky has been working during the past few years, and that we will steer ourselves to a better destiny under his leadership.” [page 44271]

After some discussion of other elements in the bill, Representative Myers rose in opposition to the Giaimo Amendment. He had tried to speak earlier, and Representative Giaimo was prepared to yield, saying, “I will be glad to yield to the gentleman who made such an excellent speech against the subway in toto before.” However, Representative Giaimo’s time had expired, leading to Representative Davis’s speech.

Now, Representative Davis yielded to Representative Myers, who noted Representative Giaimo's earlier comment about Myers' opposition to Metro:

I made it very clear. I think the Metro is a fiasco that will cost the taxpayers of this Nation more than \$5 billion by the time it is completed. I cannot see it paying its operating expenses, let alone retiring the debt. However, it is a law and I shall support and vote for funds for that Metro whenever we are assured of a balanced system.

He considered the debate over \$73 million to be "a little sidetracking argument." His real concern was the Federal contribution to the District of Columbia. "I do not see any place else in the United States where there is any similar contribution made in lieu of real estate taxes that might be paid by the Federal Government," certainly not any jurisdiction in his Indiana congressional district. "The hard working taxpayer back in each of our districts are entitled to some consideration and that should not be just the right to spend more of their money here and the responsibility to send more money to Washington." [pages 44272-44273]

Representative Scherle, a member of the District appropriations subcommittee, spoke in defense of Chairman Natcher. The Congressman was deeply grieved "to hear the verbal accusations made against my distinguished chairman simply because he is protecting the law, the very law that this Congress in 1968 and 1970 passed concerning the Federal Highway Act." Chairman Natcher was protecting the interest of every Member of Congress. "This is our colleague and the laws passed were ours."

He then turned to the other provisions of the legislation, noting that as far as he was concerned Washington was a city that "operates extravagantly." If the city hired an efficiency expert, "he would last about 3 days and then he would quit in complete disgust." [page 44273]

Representative Nelsen, the ranking Republican on the District Committee, said he was confused about the compromise reached on the House floor that was discussed earlier. Everyone agreed on the need for a balanced transportation system in the District of Columbia, but whenever the subway issue came up, "there is always a reason given why the funds should not be released," usually because one agency or another is "dragging its feet."

Now, he said, the courts had intervened with the Three Sisters Bridge, which was the key to releasing the District matching funds under the compromise. Representative Nelson admitted he was not a lawyer; he was a farmer. Even so, he thought Bazelon's decision was wrong:

Make no mistake: the majority opinion is mischievous on a grand scale, a personal attack on Members of Congress, and a decision which must, as the President so indicates, be reversed if necessary by petition to the Supreme Court. So in conclusion I say that the Bazelon decision was a travesty. I also say that it is demeaning to have judges engage in personal attacks in their decisions.

In contrast to Judge Bazelon, who was "way out of line," Representative Nelsen commended Judge MacKinnon's dissent, which "clearly marks the majority opinion as not adhering to the

facts, lacking in logic, going far beyond the issues in its holding and generally lacking in reason and commonsense [sic].”

He said he had voted for Metro in 1969. In May 1971, he had voted with “my good friend, Mr. Natcher.” Today, however, “I support funding for the subway,” citing the reasons in President Nixon’s December 1 letter to Speaker Albert. He would vote for the Giaimo Amendment. [pages 44273-44274]

Senator Scott of Virginia supported Chairman Natcher. The area, everyone agreed, needed a balanced transportation system that included freeways such as I-66. It was needed because a Metro line would be built in the median, the freeway would provide access to Dulles International Airport and help people get to the cultural center at Wolf Trap Farm operated by NPS, and would aid commuters. “I find some of those urging that we release the funds without assurance that the highways will be constructed are persons who carried placards against the construction of Interstate 66 in Virginia.”

Neither the city nor the Department of Transportation had complied with the two laws requiring construction of the Interstate freeways in the District. The Department of Transportation was pushing metro while “giving lipservice [sic] to the highway program.”

He also disagreed with Judge Bazelon’s decision:

I remember when he came to Washington. I worked under him down at the Lands Division of the Department of Justice. It was said he was a tax attorney. Now he seems to be an authority on everything.

Judge Bazelon’s decision was a good reason why other Members of Congress should support an amendment to the Constitution that would limit judicial appointments to 10 years, with the right to be reappointed subject to congressional oversight.

Senator Scott was convinced that defeating the Giaimo Amendment was essential. “I hope that those who cry so loud for the subways, whether they are District of Columbia officials, the Secretary of Transportation, or the President, will push as hard for highways as they do for subways and then we can have the balanced system we talk about.” [Page 44274]

Representative Conte returned to the freeway-subway impasse. He said the House faced a rather simple challenge:

Should we fulfill our legislative responsibilities by promptly releasing the \$72 million that represents the District’s share for the Metro project – a project that Congress has emphatically authorized to be constructed and appropriated \$684 million in the DOT appropriation as the Federal share? Or will we continue to flout the legitimate interests of millions of area residents and visitors? Will we continue to indulge the mysterious whims of those who seem bent on creating an empty underground memorial to the second-class status that this city has too long had to endure?

He did not agree with claims that the District had not complied with the congressional mandates contained in the 1968 and 1970 Acts. He inserted into the record FHWA's updated status report as of November 29, 1971:

District of Columbia Restudy

The restudy is now complete and all chapters have been sent to the printer. We have been advised by the District that a limited number of copies of the final printed report will become available early this week. FHWA staff is reviewing the draft chapters received to date, and preparing recommendations for the report to Congress

Three Sisters Bridge

Last week, at the request of President Nixon, the Department of Justice filed a petition for reconsideration by the Circuit Court of the decision rendered on October 12, 1971, by the three judge panel. The petition seeks review by the full court. Should the petition fail, the case is to be taken to the Supreme Court.

Potomac River Freeway

The National Capital Planning Commission is awaiting final concurrence from the consultant and the District's Corporation Counsel on the contract for land use studies and the preparation of a Section Development Plan for the Georgetown Waterfront. NCPC expects to have the contract executed and work under way by the end of this week.

South Leg of the Inner Loop (Lincoln Memorial and Tidal Basin Area)

Preliminary drafts of an environmental impact statement and design hearing information reports have been reviewed and returned to the consultant for revisions. The design public hearing is scheduled for January 1972.

East Leg of the Inner Loop (RFK Stadium)

The D.C. Department of Highways and Traffic is working with the National Park Service on the joint planning and funding of that segment of the highway which will pass through Anacostia Park.

Center Leg of the Inner Loop (West of Capitol)

Work is proceeding on all segments of the Center Leg.

Representative Conte also inserted into the record the petition for a rehearing en banc of the three-judge panel's finding. [pages 44274-44278]

After several other members commented, Representative Giaimo formally introduced his amendment to the District of Columbia Appropriations Act, 1972. He said that in view of the status of all other freeway issues, the "disagreement presently boils down to the controversy over

the Three Sisters Bridge and those highways which are allied with and dependent upon its resolution before they can proceed.” The fate of that bridge would be determined in the courts. “Because of that fact, we as a Congress have taken the position that because you have not started construction – and parenthetically you cannot start because a court has enjoined you from doing so – we are not going to fund the Metro.” At the same time, Congress withheld the District share, it appropriated the Federal share. “This is going to create chaos. We are literally threatening the very existence of the subway.”

Everyone favored mass transit and the Metro to serve the 1.5 million people in the Washington area, “and now we are going to threaten its existence because of the controversy over whether or not we ultimately are going to build a bridge which I want to see built.” Now, he found himself opposing the Minority Leader while agreeing with the Republican President. The courts will rule on the Three Sisters Bridge and it will be built, or not. “I urge you to let us not delay in this matter.” [pages 44279-44280]

Representative Long of Maryland opposed the Giaimo Amendment on five grounds. First, he was convinced that the cost of Metro would escalate to as much as \$5 billion, as Chairman Natcher had predicted. Second was “its probable lack of use. People do not want to use mass transit.” Third, “it is one more case in which people of ordinary means, in your district and mine, are going to be asked to subsidize people of high income in and around Washington, D.C.” The primary beneficiaries, he said, would be Federal employees “already enjoying higher salaries and fringe benefits than the taxpayers back home.”

Fourth, even if he was wrong about the use of Metro, “it is totally gratuitous to plunge into a \$3 billion to \$5 billion program when we have not developed the rapid rail facilities that already exist here and now in Washington, D.C.” Why not use existing rail right-of-way as a cheaper, minimally disruptive plan for rail rapid transit?

Finally, mass transit was not the answer to relieving congestion in the Washington area:

The answer is to stop locating so many government agencies in Washington and decentralizing our government back home – in your district and mine. We are trying to put too many angels on the head of a pin – and most of the angels are not very angelic.

Metro, if it succeeded, “would merely encourage further congestion.” He concluded by quoting Lewis Mumford’s book *Culture of Cities*:

While congestion originally provided the excuse for the subway, the subway has now become the further excuse for congestion. [pages 44280-44281]

Chairman Mahon of the Appropriations Committee said that in this “greatest legislative forum in the world,” they were “engaged in a battle which I interpret to be a battle of principle.” The issue was “a question of orderly procedure, and a question of right or wrong, as I see it.” Let us not, he said, “topple” Speaker Albert, Minority Leader Ford, or Chairman Natcher because they support the committee’s position. “Please let us not kick in the teeth the Committee on Appropriations which has gone into this matter in great detail and overwhelmingly defeated the Giaimo

amendment” in May. Chairman Mahon was understandably “emotional about it,” adding “I hope the Members will pardon me.”

He assured his colleagues that the committee was not trying to kill Metro. “We are just trying to get the will of the Congress carried out.” He did not know if his view would prevail today, but “for better or worse, under the American legislative system, Congress still has the last word.” [page 44282]

Representative Conte engaged in a colloquy with Representative Stratton. Representative Conte argued that the attempt to withhold the Metro funds defied reality. “By any reasonable understanding of the situation, both the District of Columbia and the Federal Government are in compliance with the dictates” of the Federal-Aid Highway Acts of 1968 and 1970. Now, under the latest compromise, leadership agreed to release the Metro funds if the Court of Appeals agreed to hear an appeal of the three-judge panel’s finding. “This latest attempt at political blackmail, which demeans the very integrity of the judicial process, deserves our immediate and forceful rebuff.”

Representative Stratton asked if Representative Conte was aware of any legislation that said Metro could be built only “if built simultaneously, minute-by-minute construction also proceeded on the freeways and the Three Sisters Bridge?”

No, Representative Conte replied. As he had discussed earlier, all provisions of the 1968 and 1970 laws had been satisfied. “The only one left is now in litigation – the Three Sisters Bridge controversy.”

Representative Stratton noted that Congress has required construction of Metro. In that case, “if we are preventing its being built then we are flouting our own will.”

Representative Conte pointed out that not only had Congress authorized Metro, but appropriated \$680 million for its construction.

Representative Stratton hoped that the money would not “go down into the same gullies that we will leave in the heart of Washington if we do not approve this amendment and complete the unfinished Metro system that now marks our city.”

Representative Conte, after thanking his colleague for his comments, said, “I disagree with the decision of the court of appeals, but to hold a gun to the heads of the U.S. court of appeals is not my idea of the responsible manner in which Congress should work its legislative will.” He would not have any part in an intrusion on the constitutional separation of powers.

Now was the time to end “strong-arm tactics” and release the funds. This was fair to the suburban jurisdictions whose “tolerance for our legislative maneuverings is rightfully growing short.” Further, the delays were increasing the cost of the Metro system, a result he considered an “inexcusable waste of the taxpayer’s money.” He also cited the millions of area residents who had acted in good faith through their governments to support Metro. “Our answer to their good faith and patience cannot be – and must not be – an irresponsible action that could in President Nixon’s words, “consign the entire project to an early grave.”

He concluded by saying that what was at stake was “not only the future of this city:

Also at stake was the integrity of the three branches of our government – the integrity of the judiciary, which must remain unfettered; the integrity of Congress, which must remain responsive; and the integrity of the executive branch, which must remain capable of executing projects that have been mandated.

He urged support for the Giaimo Amendment. [pages 44282-44283]

Minority Leader Ford said, “If you vote for the Giaimo amendment, you can say that we are, in effect, undermining the integrity of the House of Representatives and the Congress.” If he had to make a choice, “my choice is clearly with the legislative body of our Government.” He strongly disagreed with Judge Bazelon’s decision, which had “hamstrung the District of Columbia in proceeding with the Three Sisters Bridge.” All he was asking for was “a day in court and the sooner the better.” He considered that “a reasonable request.”

Chairman Natcher again said he supported Metro as part of a balanced transportation system for the Washington area. “Under no circumstances do we intend to come before this Congress at any time, or at any time in our committee, and make any move to stop the rapid rail transit system.” If his colleagues defeated the Giaimo Amendment, “I say this from the bottom of my heart – this will be no personal victory for me – it will be no personal victory for the Committee on Appropriations.” Instead, it would be “a victory for the Congress of the United States – a victory for the legislative branch of the Government.”

The amendment should be defeated:

We should say not only to this judge, but we should say to all of those in the city of Washington and throughout the United States that the legislative branch of the Government is a coequal branch of the Government. [pages 44285-44285]

Representative Broyhill pointed out that the House should not debate the need for Metro; Congress had decided that issue months earlier. In May, when the previous Giaimo Amendment was considered, its opponents complained about “too much foot-dragging downtown.” Now, they “have switched their criticism to the courts,” where the outcome is unknown:

In the meantime the entire subway system is dying. The subway agency is out of money; the suburban jurisdictions, which have already contributed \$125 million, have refused to continue to pay for a system they may never enjoy, located entirely within the District of Columbia, which has become the hostage of forces engaged in a desperate battle for and against highways and bridges.

He said “it makes as little sense to withhold funds for the subway to force the building of highways as it would to withhold funds for the judiciary to force a few judges in the District of Columbia to render a decision.” He wondered why Congress must hold hostages. “In fact all we have accomplished by doing so is to allow a few people to decide whether they want to build either the subway we directed be built or the highways and bridges we directed be built.” He said, “It would be a shortsighted and disastrous disservice to the public interest to force costs still

higher by unwarranted delay or to create the inevitable chaos in the Nation's Capital which would result from its complete abandonment." [pages 44285-44286]

District Delegate Fauntroy said the Congress had taken on "a moral obligation" to the residents of the Washington area in approving the Metro system. "If this House fails to act to restore the \$73 million [sic] request by the President of the United States, we will have nothing to show for our efforts and money but empty, useless holes in the ground."

After delaying year after year, now Congress was contemplating waiting for a rehearing date. "This House cannot delegate to the U.S. court of appeals, as the so-called compromise would do, the decision as to whether the Washington region shall have a subway." He reminded his colleagues of what President Nixon had said: "No further delays can be tolerated." (He favored the amendment, and could speak on the House floor, but he could not vote on it. [pages 44286-44287])

Representative Gude said the House was like a man who tells you he would like to have lunch with you but always has an excuse for not ever doing so. Congress has promised to release the funds "but" first the District should advance the freeways. "The city got such a plan and continues to build freeways, one at the very foot of Capitol Hill and another long stretch just five or six blocks to the south." So Congress said, yes "but" they should build the North-Central Freeway to Silver Spring even though Maryland has decided not to build its portion of the route, "so the District's construction of its section is a moot question."

Next, the Members said they would release the Metro funds "but" the city must begin construction of the Three Sisters Bridge. The city did so. "Unfortunately, the haste and citizen opposition has led to court challenges and an adverse finding that has temporarily halted the work."

Now those same hostage-takers had a new "but," namely the setting of a date for review of the court decision by the full Court of Appeals:

Meanwhile, they are starting to complain that the subway may turn out to cost too much because of the delays which they in part have caused.

If the House did not approve the Giaimo Amendment today, it might as well "start appropriating funds to start filling in the great tunnels that have been built through downtown and Connecticut Avenue." [page 44287]

Representative Hogan of Prince George's County said:

So, if you have a dispute with the District government and with Judge Bazelon, thrash it out with them and do not use a "secondary boycott" to penalize my constituents. They have lived up to their end of the bargain [by contributing their share to Metro] . . . and they have been denied the progress in the construction of the rapid rail transit system that they are entitled to. [page 44287-44288]

Representative John R. Dellenback (R-Or.) asked Representative Natcher for clarification. He understood that two conditions had to be satisfied for release of the District's Metro matching share:

First, that there must be a setting of a time certain for the rehearing before the court.

Second, that there must be a request for a supplementary budget, and that there is no additional condition attached to the release by the House of these funds.

Chairman Natcher said that if those two conditions were satisfied "it will clearly indicate to me, just for a change after a period of about 4 years the courts have decided to move along and pass upon this case." When the supplemental appropriations act comes to the floor in 1972, "I will stand in the well of this House and ask that the money be appropriated."

After several other Members of the House spoke on the subject, Representative Obey quoted a comment from Don Marquis' book *The Lives and Times of Archy and Mehitabel* (1940): "Did you ever notice that when a politician does get an idea, he usually gets it all wrong?" That description was apt for the compromise being discussed during this debate:

You would think from hearing the description of the so-called compromise being discussed here today that we are compromising with the court. The fact is that we are not. You would think we were withholding from the court. The fact is that we are withholding money from the District

I think it strange logic indeed for people to place as much emphasis as they have upon the issue of noncompliance, when the Congress, by the very act of withholding funds from Metro, will force the District to be in noncompliance on the District contract with the other subdivisions that are signatories to that contract on the Metro. [page 44290]

Representative Conte interrupted to say:

I have a very important announcement, because I think it will put this whole debate in proper perspective. The court of appeals has just refused to review the petition, and therefore all these agreements that have been propounded here are fait accompli. The only appeal now is an appeal to the Supreme Court of the United States, on a writ of certiori.

Representative Obey replied that if that announcement were true, then Congress was faced with a game of "chicken." He explained, "We are going to decide whether we are going to be more stubborn or whether the court is going to be more stubborn."

Representative Davis said he did not think the announcement made any difference as far as the compromise was concerned. It just cleared the path for an appeal to the Supreme Court.

Minority Leader Ford agreed that the announcement "clarifies the situation" because the Justice Department could now go straight to the Supreme Court. He thought the appeal would be

accepted. “It seems to me that this is a very, very important circumstance that would justify their immediate action.”

Representative Davis said he had known the President for 25 years and knew he wants a balanced transportation system. “So when we are told the President wants the subway, I say this: He also wants the freeways, and we are going to give him both and not just half the package.”

Representative Giaimo said his staff had now spoken with Appeals Court staff to confirm the decision and said the White House had informed him that an immediate writ to the Supreme Court was being prepared. He essentially asked Chairman Natcher: what now?

Chairman Natcher said he was not surprised by the announcement. “We are right back in the hands of Judge Bazelon, who has made up his mind for a period of 4 years that the rights and the laws of Congress are not going to be enforced.” No doubt, the case should go to the Supreme Court. “But the funds, \$72 million, should now be refused until the law is enforced.”

Representative Giaimo replied that the House should fund Metro now and then abide by the court’s decision about the meaning of the two Highway Acts concerning the Three Sisters Bridge.

After Chairman Natcher made a last appeal for defeat of the Giaimo Amendment (“I should like to respectfully request the Committee [of the Whole] to defeat the amendment which is now before the Committee”), the House voted. The amendment was approved, 196 to 183. [pages 44291-44292]

According to *The New York Times*, “A roar of approval went up from the floor of the House” as the vote was announced. Chairman Natcher had lost.

As Schrag put it:

The House vote effectively declawed Natcher. For an Appropriations subcommittee chairman to be “rolled” on the floor of the House was a humiliation, one that Natcher was unlikely to risk again. Although he vowed that “we lost the battle but not the war,” and remained a critic of Metro, never again did he use his position to attempt to stall D.C. payments. [Schrag, pages 140-141]

Reporters trying to tell readers why the House approved the Giaimo Amendment found several reasons after speaking with Representatives and aides. Everyone agreed the White House played a key role, starting with the President’s statement and letter, but including lobbying by his staff. The White House effort was needed because the House leadership was opposed. Representative Henry P. Smith (R-NY), who voted for the amendment, said, “I have never seen such a phalanx of power arrayed” against a measure. He met the White House congressional liaison, Richard P. Cook, in the hallway on December 1. Cook asked if the White House could count on Representative Smith’s vote. “I said he could but did he realize he was asking me to vote against my leadership. He told me, ‘That’s right, Henry, but we’re asking you to vote for your Big Leader.’”

Representative Conte agreed. “The President was very effective.” But he and others thought a generational divide also helped. He thought that many younger members were furious about the Chairman Natcher stalling tactics. Representative Gude concurred. “A lot of congressmen were simply worn down.” The *Star* said of Chairman Natcher’s “stunning defeat” that:

Such action is unusual in Congress. But it has been happening with increasing frequency lately as conservative and liberal Democrats continue a see-saw battle over party leadership and a new dictatorship allowed under the House’s seniority system

Natcher first started withholding D.C. subway moneys in 1966, and his [grip] on the situation remained relatively firm over the next several years as planning continued and some construction was allowed to start.

But in more recent years, Natcher lost support for his position from District officials, and important businessmen, and finally, last May, members of his own subcommittee turned on him and started the move to approve the subway funding over his objection.

These dissidents, rebellious House liberals, President Nixon’s insistence that the subway funds be freed, as well as warnings from Maryland and Virginia that they were fed up with delays, all helped overcome not only Natcher, but also the support he had enjoyed from House Speaker Carl Albert, D-Okla., and House Minority Leader Gerald R. Ford.

Of course, Representative Giaimo and Conte deserved much credit. They had worked throughout the week to gain support and, by one count, had switched about 30 votes to their side.

Representative Gude offered another reason, as described in the *Post*:

Several congressional wives and a number of staff aides, all residents of the area, were urging members of the House to approve release of the funds, he said.

Unlike thousands of projects approved by Congress annually, the members can actually see this one. “They could stand out in front of the Mayflower [hotel] and see something that really is,” Gude said.

Local leaders were “predictably ecstatic.” Mayor Washington said the vote was “of monumental significance” and “essential to the well-being of this capital city and neighboring jurisdictions.” Montgomery County Executive Gleason, who led the revolt that saw subdivisions refusing to make their contribution, said the vote was “the greatest news we’ve had about the Metro system since the transit compact was organized in 1965.” He promised that Montgomery County would “enthusiastically” make its next payment in January 1972. [Scharfenberg, Kirk, “White House Lobbying Credited With Freeing Metro Money,” *The Washington Post and Times Herald*, December 3, 1971; Finney, John W., “Leaders of the House Rebuffed as Subway Funds Are Restored,” *The New York Times*, December 3, 1971; Sarro, Ronald, “Natcher Seen Still Powerful Despite Defeat,” *The Evening Star*, December 6, 1971]

The *Post* editorial following the victory began:

Metro lives – and you may actually be able to step aboard for a ride on the Fourth of July, 1974. Suddenly that’s a prospect instead of a pipedream, thanks to a dramatic demonstration in the House that the powers of reason can indeed upset the powers of congressional tradition when a thoughtless leadership puts petulance before principle. It was a rare, reassuring spectacle to see the top leaders of both parties in the House and the great weight of powerful committee chairmen brought to their senses on this issue, and heaven only knows, they had it coming.

The *Post*, calling the decision a “miracle,” gave credit to the White House:

Mr. Nixon deserves thanks from everyone for acting to cut the “Gordian knot,” as he put it, that had brought about a “hardening of vital transportation arteries” here. The president not only spoke forcefully and often for Metro in the days leading to the House vote, but deployed the White House lobbyists on a full scale follow-up.

Also receiving credit were Representatives Giambi and Conte as well as area Representatives who fought for every vote. The *Post* also cited Representatives Hale Boggs [the Majority Leader] and [Majority Whip] Thomas P. O’Neill, Jr. (D-Ma.), “who parted company with Speaker Carl Albert in a display of real leadership, and Rep. John B. Anderson [of Illinois], who assumed leadership among Republicans.” Many others shared the credit:

In short, the House – as a whole – did itself proud this week, even if some of its leaders did not. Greater Washington, which must look to Congress for leadership in the absence of self-determination, can be grateful for the outcome. [“The Metro Miracle,” *The Washington Post and Times Herald*, December 6, 1971]

The *Star* carried a lengthy feature editorial on the key vote. Congress had fought many larger, more important battles over the years, but “not many have been fought harder – with more gratifying results – than Thursday’s narrowly successful bid to wrest \$72 million in D.C. subway appropriations from the grasp of Representative William H. Natcher.”

The struggle had everything a political drama needed, “including big-name stars”:

President Nixon, aligned with rank-and-file House members of both parties, was largely responsible for making the all-out fight. On Natcher’s side was virtually the entire power structure of the House, including Republican leader Gerald Ford.

Chairman Natcher had described the purpose of the battle as safeguarding Congress’s prerogatives. If the matching funds were not withheld until the required freeways were built, the *Star* paraphrased, “Congress would have no protection against the unwarranted encroachments of a recalcitrant administration and a meddling, irrational judiciary”:

But the outrageous, infuriating aspect of that position was that the effort to sustain the subway freeze had absolutely nothing to do with the merits of the subway – or the grave peril in which that program was placed.

The editors recalled the deal Chairman Natcher, Minority Leader Ford, and others had reached under which the Committee on Appropriations would release the matching funds if the full U.S. Court of Appeals agreed to hear an appeal of the three-judge panel's decision:

But near the very end of the seven-hour-long House debate, word arrived that the full Court of Appeals (perhaps as zealous of its own prerogatives under pressure as the Congress is) would not review. When that occurred, the House leadership deal simply fell apart.

Whether the subway dollars would have been turned loose on Thursday if the appellate court had not been heard from before the vote, no one can know. We are inclined to doubt it. In that event, Natcher might well have won, and the situation then could have had the makings of a prolonged period of subway uncertainty.

The entire region was "indebted to Mr. Nixon and to Representatives Robert Giaimo, Silvio Conte and Joel Broyhill, among many others." But many hurdles remained in 1972, such as the return of WMATA to Congress seeking Federal guarantees for the needed bonds and the city's appearance before Chairman Natcher's subcommittee on the next fiscal year's appropriations act. "Both those requests will be viewed in the light of increasing skepticism about sharply spiraling costs."

Chairman Natcher said he fully supported rail rapid transit, adding that "under no circumstances do we intend to come before the House at any time to stop the program." The editors wrote:

We trust that pledge will be honored, for the strong support which Natcher gave the subway at its inception will be more vital than ever in the months ahead.

While the editors thought Chairman Natcher had been wrong to hold the rail rapid transit funds hostage to construction of the freeways, "he is as right as anyone could be in complaining that Congress' clear-cut directives on freeway construction have been unconscionably and deliberately thwarted by officials of the District, the administration and, most recently, the Three Sisters Bridge decision written by Court of Appeals Chief Judge David Bazelon." With rail rapid transit funding finally moving forward, "Natcher has every reason to expect Mr. Nixon to exert a much stronger leadership in each of those areas."

At no time had planners ever imagined that rail rapid transit could solve the entire congestion problem, or that freeways and buses alone could do so, but the urgent debate over rail rapid transit funding meant that freeways had been "shoved on the back burner":

It is time now that those arguments get the attention they deserve, for they happen to be accurate. The subway, from its inception as a full-fledged system in 1959, was intended to share the regional transportation burden with a new system of freeways – one which in those days was much larger, in fact, than that now contemplated. It was never assumed that the full load could be carried by rail transit, any more than autos and buses alone could do the job.

A good many weird ideas are floating around these days, on that point, about shutting off the access of autos to the central city or making parking resources so scarce or so expensive that motorists would have no alternative but to stop driving. At the moment, of course, such thoughts are pure flights of fancy, for as yet there is no decent transit system. Even if there were, however, the approach is wrong. The government's proper role is not to eliminate such options, but to make public transit sufficiently convenient and economical that it will be used as a matter of choice.

For now, the House had overcome Chairman Natcher's decision to withhold appropriations for the city's matching funds. Recalling the pivotal moment in the debate when the House learned that the full U.S. Court of Appeals would not hear an appeal, the editorial concluded:

That incident, perhaps more than any other, should assuredly serve as a warning that the subway system is too vital to the Nation's Capital, and for all its vast size and cost too intricate a mechanism, to be utilized ever again as an instrument of political blackmail to achieve any other purpose, no matter how valid. The subway and road programs should both proceed, but neither at the expense of the other. ["The Several Side of the D.C. Subway Vote," *The Sunday Star*, December 5, 1971]

After the Vote

On December 3, the Senate approved the District of Columbia Appropriations Act, 1972, by a vote of 85 to 15, with \$72.4 million included in District matching funds for Metro. The issue of matching funds for the Metro was sufficiently noncontroversial at this point that it was not debated.

The conference to resolve differences between the House and Senate bills, however, did not go smoothly. The District matching funds for Metro was not the problem; a measure that appears in both the House and Senate versions of a bill is generally not subject to change. The problem appeared to be the Federal payment. The House bill appropriated a total of \$973 million, including a \$162 million Federal payment, while the Senate appropriated \$882 million with a Federal payment of \$179 million. The higher Senate amount was for Federal City College, welfare payments, expansion of Superior Court, and special education programs.

On December 11, Chairman Inouye walked out of the conference saying the House was refusing to negotiate. "Let's just say the conference is postponed indefinitely. I'll consider going back if they agree to confer. The next step is theirs." He added, "I refuse to return to a conference where I'm threatened by statements saying they're not going to sign anything that has one dime more than \$162 million. This was not a conference."

Representative Davis acknowledged making the statement because he had "strong feelings" about the matter.

Representative Giaimo referred to the stand as "intransigence of the Republican House members who announced they weren't going to budge over \$162 million before we even discussed

anything.” Representative Obey agreed that “a solid Republican phalanx” had taken the same position as Representative Davis.

Although Metro matching funds were not on the agenda the *Post* suggested that, “Natcher is believed to be smarting from his defeat on the House floor last week” If the conference could not reach agreement, release of the District matching funds could be delayed, and would not be included in a continuing resolution extending current budget levels if needed to keep the city solvent:

The White House, which lobbied hard in support of Metro funds when the House overturned Natcher, expressed displeasure yesterday at the deadlocked conference.

A high administration source said “a continuing resolution won’t do.” If some conferees refuse to agree on the budget, the source said, “that’s a way those who opposed Metro on the floor, and lost on the floor, work their will in committee. The President fought for this and we don’t want to lose it through parliamentary maneuver.” [Moore, Irna, “Inouye Quits Talks on District’s Budget,” *The Washington Post and Times Herald*, December 12, 1971]

Despite this clash, the conferees reached a tentative agreement that Chairman Inouye expected to be approved on December 14. The signatures of at least 7 of the 12 House conferees were needed, but the House delegation refused and walked out without signing the conference report. With the agreement reportedly calling for a Federal payment of \$163 million, Representative Bow said, “there isn’t any agreement because we can’t agree.” He would not sign the tentative agreement. Senator Inouye gave up at 6:30 p.m. and went home.

Speaker Albert said he was “pushing as hard as I can” to get an agreement and had called on the White House for help. Minority Leader Ford was talking with the Republican delegates in an effort to break the deadlock. He was confident that an agreement could be reached. “Things are very tenuous right now, and I’ve been working on this for five hours,” he said in the evening.

Despite the focus on the Federal payment, some observers suspected a different agenda was at play:

But some congressmen have charged that the Republican House members are deliberately trying to deadlock the conference, forcing the Congress to approve a continuing resolution allowing the city to continue spending at last year’s level. Such a resolution would not include \$72 million in subway construction money

“This is the most petulant thing I’ve ever seen,” Rep. Gilbert Gude (R-Md.) said. “I don’t know whether anyone is going to admit it, but the holdup is an attempt to delay the subway funds.”

Speaker Albert refused to bring up a continuing resolution even though Congress was about to adjourn for the year.

Chairman Inouye said the Senate would not consider such a resolution if it did not provide the District matching funds for Metro. "All I know," he said, "is that the conference is still alive and that I'm leaving Washington for Hawaii at 5 p.m. Wednesday." [Moore, Irna, "GOP Blocks D.C. Budget, Adjournment," *The Washington Post and Times Herald*, December 15, 1971]

With the threat hanging over conferees that Congress would remain in session despite the pending Christmas break, conferees reached agreement the next day. The conference report appropriated \$932,512,700 for the District, with a Federal payment of \$166 million. Although four House Republican conferees still refused to sign the conference report, Speaker Albert and Chairman Mahon secured six Democratic votes and Representative Ford pressured Representative Bow to provide the needed seventh signature. One Democratic conferee, Representative Stokes, had been summoned back to Washington from Cleveland and convinced by the Speaker to sign the report despite reservations that funding levels were insufficient.

Representative Obey told reporters, "If it weren't for the speaker we'd all be here another week. He really stuck hard." Irna Moore, reporting for the *Post*, added, "Other members said they could not recall seeing Albert so determined about anything since he became speaker at the beginning of the year."

Chairman Inouye said, "I'm not happy with it, but under the circumstances, it's about as good a bill as we could hope to get." Chairman Natcher, who signed the report, said, "This bill is fully adequate. It's a good bill." [Moore, Irna, "\$932 Million Fund for D.C. Approved," *The Washington Post and Times Herald*, December 16, 1971]

The Senate approved the conference report by voice vote with little discussion. In the House, Chairman Natcher could not resist raising the issue of subway funding. The District, he said, "must have freeways, express buses, and a rapid transit system" for a balanced transportation network. "The Highway Acts of 1968 and 1970 are the law and must be complied with. Both systems must proceed together." For the record, he inserted President Nixon's letters of August 12, 1969, and April 27, 1971, and his statement of November 18, 1971, calling for a balanced transportation system. Chairman Natcher added:

I believe that President Nixon will carry out the commitments set forth in the letters and the statement and that the Department of Transportation, the Attorney General, and the District of Columbia officials should immediately join with the President in carrying out the mandate of the Congress set forth in the Highway Acts of 1968 and 1970.

Minority Leader Ford said he could "basically agree with the recommendations of the subcommittee, aside from the subway problem." Although it had been "a most unfortunate and regrettable last 48 hours trying to find an answer so that the Congress could adjourn," he thought the House owed Representatives Natcher, Davis, and their colleagues "a real round of applause."

Representative Bow told his colleagues that he had signed the report "with some reluctance." He was not satisfied with every item, but "thought it was rather necessary that we have a conference report and dispose of this matter." However, he resented some of the things said about Chairman Natcher and the Republican conferees:

We have read and seen things in the paper, and heard things on the radio about this House committee that just are not factual. I listened last night to one radio program that said that the distinguished chairman of this committee (Mr. Mahon) and the distinguished minority leader, the gentleman from Michigan (Mr. Ford), and myself were deep in a little room here in the Capitol trying to connive some way to keep the Metro funds out of this bill. There is absolutely no truth in that, absolutely none, because we have all agreed that the House worked its will and the Senate theirs, and the Metro funds are there. Some of us may not have liked that, but it was the will of the House. We never at any time did anything in an attempt to keep the Metro funds out of this bill. So that the irresponsibility of some people who go on the air and make reports of that kind I think should be criticized.

Representative Scherle, one of the conferees who had not signed the report, said, "In good conscience, I could not sign this report." He had listened to testimony about "such reckless, wasteful spending on the part of the District of Columbia officials" that it was "unbelievable." He could not agree to a Federal payment above \$162 million, but offered "my compliments to the District officials for their dexterity and ability in using the old shell game" to secure a higher amount.

Overall, the Metro funding issue was not a major topic of discussion. The House approved the conference report 260 to 92. [District of Columbia Appropriations, 1972 - Conference Report (H. Rept. 92-755), *Congressional Record-Senate*, December 15, 1971, pages 47110-47111; Conference Report on H.R. 11932, District of Columbia Appropriations, 1972, *Congressional Report-House*, December 15, 1971, pages 47139-47147]

On December 15, 1971, President Nixon signed the delayed District of Columbia Revenue Act of 1972 (P.L. 92-196). Among other items, it increased the gasoline tax in the District to

8 cents a gallon, from 7 cents.

He signed the District's appropriations act on December 18 (P.L. 92-202) for a fiscal year that began on July 1, 1971.

A *Post* editorial explained how the city had avoided bankruptcy:

If ever there was a screaming argument for self-government in this powerless colony of Washington, we've witnessed it this week on Capitol Hill. There, a shameful, 11th-hour set of shenanigans was passed off as the way to decide how the capital of the United States is to provide vital municipal services to its people for a fiscal year that's nearly half over to begin with. While City Hall sat helpless . . . it took (1) a furious walkout by one sympathetic senator; (2) an ultimatum and follow-up prods by the Speaker of the House and the House Minority Leader; (3) expressions of deep concern from the White House; and (4) the rumblings of Santa Claus in the wings just to get anywhere near agreement on what the District of Columbia should be spending (and for what)

So you could say that we should bless Scrooge for the change of heart and let it go at that. But we shouldn't because this was the worst performance in years.

No one knew why “the House Appropriations conferees behaved so scandalously in the negotiations with the Senate, especially since they don't ever have to tell us.” Even after their views on the District's Metro funding had been rejected “when they tried to kill off the area's rapid transit system,” they were “still stubbornly insisting that their views should prevail over anybody else's.”

The city may be able to think of “steps the local government might take to perhaps lessen the chances of this dangerous brinkmanship reoccurring,” but the reality was that “as long as the entire, absurd system of colonial overlordship persists, Washingtonians – and even their suburban neighbors – will still be subject to this humiliating and grossly undemocratic treatment once a year.” [“How Washington Avoided Bankruptcy,” *The Washington Post and Times Herald*, December 16, 1971]

The *Star* began its editorial with a sigh of relief:

Even to a city thoroughly accustomed to crises with Congress, yesterday's eleventh-hour approval of a District of Columbia budget – for the year that began last July 1 – was much too close for comfort.

The editors reminded readers that “it might well have been worse.” After all, “with Congress driving pell-mell toward adjournment, certain House members reportedly were still refusing to negotiate a compromise,” without which a continuing resolution eliminating Metro matching funds would have been necessary:

According to some sources, the delaying tactic represented a final, last-gasp effort to revive Representative Natcher's drive to strip \$72 million in District subway funds from the budget.

If true, “the tactic hit a new low in political subterfuge” in view of the House's repudiation of Chairman Natcher's drive only 2 weeks earlier. “It is hard to imagine that the Congress as a whole would have countenanced such an outrage. Fortunately, that eventually never had to be tested.”

The result was, in the words of Chairman Inouye, “as good as could be obtained” – not as good as the Senate bill, but not as bad as the House version, with the Metro funds intact. “It leaves some serious fiscal problems, but the city should approach them with a recognition that both the House and Senate clearly directed that some belt-tightening all along the line is in order.” [“Back in Business,” *The Evening Star*, December 16, 1971]

On December 16, the WMATA board completed work on its spending program of \$186 million, made possible by release of the District's matching share. The plan included construction of the McPherson Square and L'Enfant Plaza stations, a contract for 88 escalators in the first seven operating stations, and contracts for projects and equipment purchases that had been approved before the funds were available but could now move forward. WMATA would now accept bids

for the Pentagon and Pentagon City stations as well as adjacent trackage, and a communications system and the first 300 cars of a planned 556-car fleet.

The board also approved an agreement with Virginia for construction of a transit right-of-way in the I-66 median. The board agreed to pay \$10 million for grading, drainage, and bridge construction to accommodate the rail line between the Capital Beltway and State Route 7 west of Falls Church. [Eisen, Jack, "Metro Allocates New Funds," *The Washington Post and Times Herald*, December 17, 1971]

The Metro board also was looking forward to a hearing in early 1972 on Federal bond guarantees. The board expected to receive about \$300 million in semi-annual payments from local jurisdictions in early January, but the funds would be spent or earmarked by mid-March. WMATA would be broke until the next payments became due in July unless Congress passed legislation allowing the full faith of the Federal Government to back Metro revenue bonds. In the meantime, funding on hand was enough to ensure the opening of the first 4.6-mile section of Metro in July 1974, according to General Graham.

The Senate and House District committees were planning a joint hearing to consider legislation that Senator Mathias and Representative Broyhill had introduced to provide Federal guarantees of WMATA's bonds. ["The Metro Still Goes for Broke," *The Evening Star*, December 17, 1971]

Representative Obey, in his memoir, recalled the end of the Natcher impasse this way:

The day we won, I was holding a "Tom and Jerry" pre-Christmas party in my office in the Cannon building. Few members of Congress even knew what a Tom and Jerry was, but Tip O'Neill did. No self-respecting Irishman was ignorant of the blessings of Tom and Jerry, a Christmas drink of hot water, an egg-based batter spiced with cinnamon, nutmeg, cream of tartar, and allspice, laced with rum and brandy. The party began at 5 p.m. and Giaimo arrived right on time – half to celebrate and half to bemoan our fate in Natcher's doghouse. As he sat on my office couch and sipped his drink, he became more and more melancholy. "Dave, it was a helluva job we did. Never thought we could do it until the end. It was the right thing to do, but nobody will ever thank us, and Natcher will never forget," he said. Giaimo proved to be right on both counts. When the subway was dedicated, I did not even receive an invitation. Jackson Graham, the head of the Subway Authority, never called to express appreciation. And Natcher didn't speak to Bob or me for two years.

Few may remember how the impasse was broken, but Representative Obey said, "I do, and I'm proud of the role I played in jumpstarting the fight that pried it loose." [Obey, page 138]

Fighting For/Against Freeways

As the House of Representatives learned while debating the Giaimo Amendment, the U.S. Court of Appeals voted, 4-3, against reconsidering the three-judge panel's finding on the Three Sisters Bridge. As was customary, the judges did not explain their decision. At the same time, the

three-judge panel voted against reconsidering their finding, again by a 2-1 vote. They also did not issue a statement.

White House press secretary Ziegler said the White House was disappointed by the court's decision. Although approval of the Giaino Amendment had separated the freeway and subway issues, he said, "We want to see the Three Sisters Bridge built as part of the over-all transportation system in the District." The next step, as the President had pointed out, was to appeal to the Supreme Court.

Although Justice Department officials would say only that they were considering further action, sources told reporters that the Nixon Administration would soon file an appeal with the Supreme Court.

With the freeway issues separated from the subway funding, Secretary Volpe would have an easier time demonstrating in court that if he approved construction of the Three Sisters Bridge, he was not reacting to "undue pressure" from Congress. [Groom, Winston, "U.S. Set to Combat Bridge Delay," *The Evening Star*, December 4, 1971]

The Federal-Aid Highway Act of 1970 required the District of Columbia to submit a report by the end of the year on its plans for completing the Interstate System. The D.C. Federation of Civic Associations and ECTC made clear on December 10 they remained unyielding in their opposition to more freeways. In their view, the city should not submit the required report until the spring of 1972. First, the city should complete an EIS. Ninety days after the city filed it with EPA, the city could hold hearings. Only then should the city submit a report to Congress.

The city had scheduled hearings to begin on December 13, but Sammie Abbott urged the city to postpone the hearings. The additional time would allow citizens to study the consultants' report fully so they could testify intelligently. If the hearings were held as scheduled, Abbott said, many civic groups would boycott them. Whenever they were held, however, they should take place in the evening when working men and women could attend. "We will not be silent slaves and surrender our rights to due process in defense of our environment, homes, community and city from the destructive effects of freeways that only the highway lobby and its political spokesman want."

The two groups promised to seek injunctions to block construction of more freeways. ["Freeway Foes Press Fight," *The Evening Star*, December 10, 1971]

The city moved ahead with the planned hearing the evening of December 13.

Earlier in the day, Lawrence A. Dondanville, who had directed the consultant review by DeLeuw, Cather Associates and Harry Weese and Associates, Ltd., presented the report to the city council. The report, as noted, recommended construction of 11 miles of freeways in the city in addition to the Three Sisters Bridge, including I-95, but excluding the North-Central Freeway into Montgomery County. Building the North-Central Freeway was "preferable" from the standpoint of "traffic service and overall benefits," but the consultants recommended against it because of potential political problems and some operational difficulties.

Dondanville said that a “liberal” or “broad” reading of Federal highway laws would allow the use of Federal-aid highway funds for replacement housing and new business opportunities for those displaced by the construction. He estimated that about \$40 million worth of decks above the freeways could provide room for replacement housing and businesses while screening the freeways from residences nearby.

The team had met with many community groups and found that only the business groups supported the additional freeways. Overall, however, the team said the additional freeways would “improve and enhance community relationships,” enhance “neighborhood continuity” and lead to construction of “community pavilions,” “miniparks,” and “plantings and landscaping.”

Not building the freeways would lead to increased congestion on surface streets, with consequences for neighborhoods. “The deterioration of neighborhoods will be far greater than residents realize if surface congestion is allowed to grow.”

Further, failure to build the freeways would lead to “a gradual attrition” of business. “Without adequate highways, the Metro System could not operate at its maximum efficiency. But service will be slow and irregular,” hindering rapid rail transit passengers access to and from the Metro stations. The absence of the freeways also would endanger the city’s tourist trade by making movement around the city more difficult.

Director Airis told the city council that he still favored including the North-Central Freeway in the city’s plans. Building it would “produce the greatest transportation benefits for the District.” However, he did not plan to make a final recommendation to Mayor Washington until after the city conducted the planned public hearings.

Councilman Willard made his support for the consultants’ plan clear. He charged that opponents “have adopted the narrowly parochial track of wishing to keep things as they are.” The freeways, he said, were essential to the city’s economic future and to generating the revenue needed to solve its social problems. “I say to my fellow councilmen, we must subvert any local vested self-interests to future benefits of the many. Our ruling criteria should be the greatest good for the greatest number.”

Willard was the only city council member to express his opinion on the consultants’ report. Chairman Hahn said only that he would support a plan that dropped the North-Central Freeway and I-95, while Vice Chairman Tucker indicated he had reservations about an expanded freeway network.

The public hearings began that evening. Frederick H. Thomas, speaking on behalf of 50 civic organizations, denounced the hearings as illegal because the council had not provided proper notice of the hearing and failed to seek an EIS of the consultants’ study. Many in the crowd cheered as he denounced the hearing and said that testifying also would be illegal. With that, Thomas led a walkout of about 100 people. They left peacefully while singing, to the tune of “America the Beautiful”:

Oh beautiful for spacious roads

That spread from slum to slum.

The smog is gray, the homes decay

But see the profits come.

The remainder of the song included the line:

Pollute the air,

But they don't care—

They're selling gasoline.

ECTC, which had organized the walkout, vowed to seek an injunction to prevent the city from submitting the consultants' report to Congress by the December 31 deadline.

As the *Post* put it, the walkout “left the packed City Council chambers in the District Building nearly vacant and shortened a potential late-night hearing to less than an hour.” [Barnes, Fred, “Build Roads, Council Told,” *The Evening Star*, December 13, 1971; Scharfenberg, Kurt, “Roads Foes Walk Out of D.C. Hearing,” *The Washington Post and Times Herald*, December 14, 1971; “Freeway Opponents,” Metro Wrapup, *The Evening Star*, December 14, 1971]

(The first two lines of the opponents' lyrics were used by the *Post*'s editorial cartoonist, Herblock (Herbert L. Block), on October 11, 1969. In the cartoon, a choir of highway lobbyists sang the two lines to protest “against cutting U.S. \$4-Billion-a-Year Spending on Highways.” The members of the choir were labeled the Trucking Industry, Road Materials Industries, Gas-and-Oil Lobby, Motoring Lobby, Real Estate Lobby, Billboard Lobby, State Politicians, and Contractors.)

(With NEPA still fairly new, ECTC and other highway opponents around the country were exploring its requirements for ways of halting projects. For example, an editorial in *The New York Times* in December 1971 discussed the Environmental Defense Fund's plan for a suit arguing Secretary Volpe's recommendation to Congress for apportioning Highway Trust Fund revenue should be subject to review in an environmental impact statement to consider the impact on “downtown decay” and “suburban sprawl.” This was a reference to the ICE, which was used to apportion Interstate construction funds. The article continued:

What strains will it put upon the nation's fuel reserves, with consequent invitation to oil spills, strip-mining, and other such scourges? Will it further drain the supply of acceptable air for breathing and perhaps even heighten the racial tensions that result from the flight of the affluent and middle classes to the suburbs?

(The editorial said that putting “so great a burden of blame on highways for the social ills of the day may seem excessive,” but in view of the “vast dimensions” of the program, perhaps the program “should be examined as a whole before more roads are built and still more damage done.” In that light, “the proposed procedure is not far-fetched; it should have been followed right along.” The courts did not go along with this line of thinking, limiting environmental

reviews to project approval of major Federal actions, but as this example illustrates, Thomas's demand for environmental review of the consultants' report was not unusual at the time. ["The Impact of Highways," *The New York Times*, December 17, 1971])

On December 15, during the second day of public hearings, the city council heard from suburban Maryland officials who asked the District to reject the North-Central and Northeast Freeways. Neal Potter of the Montgomery County Council pointed out that Maryland transportation officials opposed the North-Central Freeway. If the city built its portion of I-70S, it would be a "dead-end road" when it reached the Maryland line.

Prince George's County had not decided whether its portion of I-95 would be built, but County Executive Gullett asked the District not to approve I-95. "Don't aim a road at us until we decide what ought to be aimed where." He and Councilman Francois said they wanted a federally financed impact study before deciding, but they said that in no case should the route, if built, follow the path indicated by the consultants.

They emphasized the value of expanded transit choices. Potter said the consultants' report had a "pro-highway bias," arguing that it had "given no attention to the alternate modes for solving our transportation problems":

We feel this is neglectful of our county's needs as well as of the needs of the District of Columbia and most of the metropolitan area. Both the coming of Metro and better bus service have the potential to do more for the commuters and far more for the capacity of the highway system than could any acceptable network of freeways.

Expanded commuter rail service on existing tracks "could do things for us quickly – far faster than freeways and with far more capacity."

Francois predicted that Metro would make new freeways, planned in the 1950s, obsolete.

Council Chairman Hahn told the suburban officials, "Just as I wouldn't want your decisions to impose decisions on us, so I wouldn't want our decisions to impose choices on you." However, Councilman Willard attacked the suburban stance, arguing that the suburban opposition discriminated economically against the District. [Scharfenberg, Kirk, "Counties Ask City to Block 2 Roads," *The Washington Post and Times Herald*, December 16, 1971; Barnes, Fred, "Call for Freeways Is Hit at Hearing," *The Evening Star*, December 15, 1971]

The city council received conflicting testimony on December 17, the third day of the hearing. The Metropolitan Washington Planning and Housing Association said the 11-mile extension of the Interstate network would cost the city \$1 million a year in property taxes and additional losses in income and sales taxes. The *Post* account said:

The Planning and Housing Association showed the Council a number of photographs of the areas that would be affected by the recommended 11-mile network. Small single-family homes beside the proposed new highways, which include an extension of I-95 through Northeast, would be "dwarfed in scale" by a "massive concrete pit," Ralph Fertig, director of the association, told the Council.

Abandonment of houses actually in the right-of-way would invite scavengers and pyromaniacs into the neighborhoods and persons remaining would “live in fear,” Lawrence Stinchcomb of the association board, said.

As for the consultants’ recommendation that new housing could be built on decks above the freeways:

Stinchcomb, who recently completed a 21-city study of mass transit for the Department of Transportation, said that housing on decks, called air-rights housing, is expensive because of the need for special plumbing and utilities design. “Nowhere in the United States has such housing been proven successful or even buildable under (federal) standards for the housing of low- and moderate-income persons,” he said.

They also were skeptical about other recommended freeways. Freeways would divide and isolate communities. The point where the K Street tunnel surfaced at Mount Vernon Square to connect with a freeway in the New York Avenue corridor “is the point where downtown meets a residential community,” Fertig said, “and this is a point at which an ancillary use of the freeway would be to provide a wall between that community on one side and the downtown, which is used by office workers.” The *Post* report continued:

The New York Avenue freeway would, at an interchange, surround Brentwood Village on three sides by freeways, Fertig said. The city’s housing office wants to rehabilitate homes there for moderate-income residents.

The Metropolitan Washington Board of Trade, the D.C. Chamber of Commerce, and local hotels, banking, and savings and loans disputed such characterizations of the consultants’ proposal. Board of Trade spokesman William H. G. Fitzgerald said the 11-mile extension was “needed to complete a balanced (transportation) system, which is necessary to the economic vitality of this city” [Scharfenberg, Kirk, “Freeway Foes, Supporters Clash at City Council Hearing,” *The Washington Post and Times Herald*, December 18, 1971; Critchfield, Richard, “Business Council Endorses Part of Freeway Proposal,” *The Evening Star*, December 17, 1971]

On December 20, the city council heard from Concerned Committee for K Street, representing 35 merchants operating along the street. Their representative, Stanley Sher, said the proposed K Street tunnel would have a “horrendous” impact on their businesses. He estimated the tunnel between Washington Circle and Mount Vernon Square would destroy 845 housing units, displace 1,050 jobs, destroy a number of firms, cost \$350 million, and provide “astonishingly low service to the city.” [“35 K St. Merchants Fight Tunnel Plan,” *The Washington Post and Times Herald*, December 21, 1971]

The Maryland State Highway Administration (MSHA) had asked the Metropolitan Washington COG for \$2 million to study extension of I-95 through Prince George’s County to the District line. The request stated that all alternative routes “will be considered, including those discussed previously” and new ones. “Alternatives will also be considered which reduce or eliminate the freeway, as well as combinations of transit and highway service which will serve to reduce the impact of the highway.” Unlike some of the other controversial freeway proposals in the area

that had been developed before 1970, the I-95 extension was subject to NEPA and other recent environmental requirements. The State promised a “full and frank” public airing of the issues as well as consideration of simply dropping the extension.

Reporting on the request, Eisen pointed out that FHWA was “reluctant to permit a gap in the principal Maine-to-Florida superhighway in as visible a location as a suburb of the nation’s capital.” However, FHWA’s Maryland Division Engineer, Donald Hammer, pointed out that the State had the power to reject the I-95 extension. “If the State were unable to build it, the federal government is not in the position of trying to force it.” [Eisen, Jack, “Md. Seeks Funds to Study Extension of I-95 to District,” *The Washington Post and Times Herald*, December 14, 1971]

Before the COG could consider the request, Maryland withdrew the application, saying it wanted to revise it. [“I95 Extension Bid Withdrawn,” *The Washington Post and Times Herald*, December 18, 1971]

Reporter Fred Barnes, in an Interpretation published in the *Star* on December 19, thought he detected signs of life for the North-Central Freeway in the hearings:

It wasn’t that anyone argued that the freeway is absolutely essential to the well-being of the District. But assorted officials and experts made it clear that they feel the North Central would be mighty helpful in easing traffic congestion.

The positive comments from Dondanville and Airis were not likely to sway Mayor Washington, but the freeway “might now be looked on more favorably in Congress, which has the ultimate authority to decide if it should be constructed.”

The consultants’ report seemed to be the end of the North-Central Freeway but Dondanville “was singing a somewhat different tune at the city council hearings. “We still,” he said, “recommend consideration of this” because a freeway network with the North-Central Freeway was “preferable from the standpoint of traffic service and overall benefits.” Airis agreed that the freeway would produce great transportation benefits for the city.

According to Barnes, some members of the council, particularly Chairman Hahn, “were astonished at these remarks. They thought the testimony clashed with the recommendation of the study.” Dondanville replied that the study’s position reflected the political and operational problems involved, not because the freeway was not needed. Barnes continued:

Privately, a key official conceded that the political factor – fear that protests triggered by plans to build the North Central might jeopardize construction of any freeways – was the chief reason the North Central wasn’t recommended.

Willard, who favored the entire freeway system, understood that the recommended 11-mile network was a political compromise. “I realize that in something like this you can’t have it all.” [Barnes, Fred, “Signs of Life in Road Plan,” Interpretation, *The Sunday Sun*, December 19, 1971]

Maryland Secretary of Transportation Hughes followed the testimony with a letter urging the city council not to approve the North-Central Freeway and postpone a decision on I-95. Metro and

the Palisades Parkway would fulfill the transportation needs that the North-Central Freeway was intended to satisfy. The State wanted to wait to see how Metro would serve transportation needs in the North-Central Freeway corridor before making further decisions on it. Although the Maryland Department of Transportation was undertaking a new study of the alignment, Secretary Hughes strongly endorsed the linking of the Baltimore-Washington Parkway and the proposed Industrial Freeway in the New York Avenue corridor to carry I-95 traffic. [Critchfield, Richard, "State Asks Delay on Freeway," *The Evening Star*, December 20, 1971]

I-95 would result in major community and environmental impacts in the District and Maryland, according to Rhea Cohen, chairman of the Prince George's Environmental Coalition. She made clear the coalition's objections to I-95 in a letter to the editor of the *Star*. I-95, she said, "is a stab in the heart of Prince George's County." It would "divide neighborhoods and eradicate homes in College Park, Hyattsville and Chillum." It would destroy woodland, streams and wildlife and reduce the recreational value of Northwest Branch Park. It would load the Anacostia River "with more silt, debris and automotive byproducts."

The county already had "a dangerously high level of environmental insults," some of them introduced by the existing I-95 link from Baltimore to the Capital Beltway:

At both the Powdermill Road and Beltway interchanges, it has wasted – at each site – about one hundred acres of vegetation. Vegetation needed for cleaning the air, manufacturing oxygen, absorbing sound, holding down the soil and holding back the flood waters of Little Paint Branch.

I-95 was "not only a menace to public health. It also threatened to compete with Metro." The rapid rail line would work "if it does not have to compete with freeways for the commuter market." The MSHA, Cohen said, "should provide data on all proposed road projects in the vicinity of I-95, and should include alternate modes of travel to serve the transportation corridor." In short, "the agency should demonstrate the need for I-95."

Her letter was followed by another from Kenneth C. Styers, president of Prince George's Civic Federation, which called "on all county and state officials and legislators to stop the construction of I-95." ["Pot-Shotting I-95," Letters to the Editor, *The Evening Star*, December 23, 1971]

On December 20, 1971, District officials celebrated the opening of the 1,600-foot 9th Street tunnel that would carry southbound traffic under the National Mall between the Southwest Freeway and Constitution Avenue. It was paired with the northbound 12th Street tunnel opened several years earlier. The three-lane southbound tunnel included one lane painted for exclusive bus use:

As Santa Claus, perched on a minicycle, and a contingent of highway department employees looked on, Mayor Walter E. Washington yesterday opened the automated \$11.5 million 9th Street tunnel under the Mall

Those holding the ribbon included city council members Stanley Anderson and Margaret Haywood, Director Airis, and Deputy Mayor Watt. The ribbon-cutting did not go as planned:

Highway director Thomas F. Airis explained to the mayor and television cameramen how it would be done: “Ok, it will be one, two, three and cut the . . .” Before he could finish the sentence, the mayor had cut. “I’m the fastest clipper in the East,” he remarked.

On its south end, the 1,600-foot tunnel had been built under the site of a hotel being built in the L’Enfant Plaza complex in redeveloped Southwest.

The tunnel, which had been under construction since January 1967, was not part of the Interstate System. It carried U.S. 1 and U.S. 50 across the National Mall.

According to the *Star*, the tunnel included “a dizzying collection of electronic devices which will make it more modern than any other tunnel in the country.” These devices included closed circuit television to keep traffic engineers aware of conditions in the tunnel via 11 monitors; a machine to analyze carbon monoxide levels and regulate the tunnel’s giant fans accordingly; and sensors in the pavement that would alert engineers of any traffic backups missed on the monitors.

Chief Engineer John E. Hartley explained, “With the electronic equipment at his disposal, the control room engineer will be able to regulate the flow of traffic in the three-lane tunnel by remote control.” Cameras will allow the operator to zoom in to any blockage to “see if someone is sick or if their car is overheated or if there has been an accident.” He added, “If it didn’t already have enough notable attributes, it also will be the longest tunnel in Washington.” [“Televised Tunnel Opened Under Mall,” *The Washington Post and Times Herald*, December 21, 1971; Barnes, Fred, “Mall Tunnel Opens,” *The Evening Star*, December 20, 1971; Barnes, Fred, “D.C. Getting Last Word in Tunnels,” *The Evening Star*, September 8, 1971]

I-66 Hassles

As noted, WMATA planned to build an Arlington-to-Fairfax Metro line in the median of I-66. The rail line would be a subway through most of Arlington, emerge near the Fairfax border, and run in the median strip about 8 miles to the end of the line. Construction of I-66 was set to begin in the spring of 1972; WMATA had set aside \$10 million to reimburse VDH for work needed to prepare the median for the rail line.

That plan was based on the assumption that I-66 would be built inside the Capital Beltway. Fred Barnes explained:

The problem is that construction of I-66 may not begin on schedule – or at all. A group of citizens is waging a court battle to block a 10-mile section of the road and they have promised to go to the Supreme Court if necessary in their fight.

Should a court bar construction of I-66, subway agency officials would have to make new plans for routing the rapid rail line. That would cause months of delay, an agency spokesman said.

Following Judge Lewis’ decision in October, VDH had resumed right-of-way acquisition, but the U.S. Court of Appeals in Richmond had ordered a halt until the appeal was decided. [Barnes, Fred, “Subway Agency Caught in Hassle Over I-66,” *The Evening Star*, December 23, 1971]

On December 28, ACT released a 57-page document critiquing plans for I-66. The report, sent to 12 Federal and State agencies, was in response to Virginia's EIS. In the report, ACT criticized the VDH for not studying alternatives, which Virginia had suggested were "not realistic." ACT recommended abandoning I-66 in favor of rapid mass transit, or if that did not occur, rerouting the highway to avoid parkland. ACT was not required to submit an EIS, but the report stated, "The major purpose of these comments is to alert reviewing agencies to the highly controversial nature of the proposed highway."

The *Star's* Barnes reported, "It charged that the state document omitted, treated incompletely, failed to document, based on inaccurate information or dismissed without a thorough analysis many important elements of the freeway's environmental impacts." For example, the report challenged VDH's basic assumptions, such as that the crash rate would decline. "The increased traffic congestion on many existing roads near the proposed highway will undoubtedly lead to a higher accident rate on these roads," the report stated.

ACT also challenged VDH's assertion that the freeway's link to the Theodore Roosevelt Bridge would improve transportation in the region:

Analysis of the experience of urban areas throughout the nation would give ample evidence that there are virtually no transportation benefits to be derived from the construction of new urban highways such as the proposed I-66.

ACT questioned the plan to install Metro in the median, stating that "competition with the Metro by an eight-lane highway beside it may well endanger the economic viability of Metro by drawing off potential patrons. Such a loss of patronage will also lead to increased fares and increased travel costs of the rapid rail system." ACT added, "Similar effects will occur in relation to bus service."

As for VDH's assumption that there is no "prudent alternative" to I-66, ACT's report suggested that "such alternatives would include exclusive bus lanes at peak hours on existing roads, an expanded rapid rail system, commuter rail, monorail, bicycle and pedestrian paths, exclusive busways and any other modes that would move people efficiently."

As the *Post's* Jay Mathews summarized:

The report . . . says the 9.6-mile section of highway proposed for inside the beltway would split Arlington County in two, increase rather than reduce traffic congestion, and cause more air and noise pollution than the Highway Department claims.

The report was particularly critical of the Highway Department plans to cut pollution by building brick and earth walls up to 20 feet high along each side of the road.

"Such devices would not only be visually offensive and entirely unacceptable to the adjacent residents, but most important, these devices would constitute a physical, psychological and social barrier – a "Chinese wall" that would divide the community," the report says.

The report says the Highway Department's environmental statement ignored the fact that a limited access highway through a largely residential area would reduce citizens' access to shopping districts and churches and hinder fire trucks and ambulances.

From an aesthetic point of view, ACT claimed, "This massive, ugly gash of concrete with its thousands of cars, trucks and motorcycles, cutting through the center of residential and school areas, has no redeeming aesthetic features." Moreover, the freeway "represents an obsolete and ineffective attempt to solve transportation problems . . . and in utilization would be unacceptably antagonist to the well-being of the residents of the area."

A Virginia highway spokesman said that all groups were welcome to comment on the draft environmental statement, but "It is unusual for comments that detailed to be provided by a citizens' group." [Barnes, Fred, "Environmentalists Rap I-66 Plans," *The Evening Star*, December 27, 1971; Mathews, Jay, "Opponents of Rte. 66 in Va. Issue Critique," *The Washington Post and Times Herald*, December 29, 1971]

In late December, EPA released its comments on Virginia's environmental statement on access to the Three Sisters Bridge. The statement, EPA said, was inadequate because it did not review the entire bridge complex or examine alternatives to building the bridge at a different location or not building it at all. EPA also said the statement did not provide sufficient analysis of the air, noise, and water pollution that might result if the bridge were built at the Three Sisters location.

EPA had intended to release its comments in November, but agreed to delay doing so after initiating a meeting with the U.S. Department of Transportation on November 18. In line with EPA policy, Deputy Administrator Robert W. Fri and other officials wanted to explain that they were about to issue an unfavorable response to Virginia's environmental review. Secretary Volpe's top officials attended, including his aide, Joseph A. Bosco, General Counsel John Barnum, and John A. Hirten, Deputy Assistant Secretary of Transportation for Environment and Urban Systems. Several FHWA officials, including Administrator Turner, also attended.

A memorandum describing the meeting stated:

DOT representatives expressed concern over several factors relating to EPA's comments. Although DOT would be preparing an environmental impact statement [of its own] and would welcome EPA's comments, Mr. Hirten indicated DOT's concern that public release of EPA's comments at this time would add to the public furor over this project and make it difficult for DOT to proceed in resolving the issue.

With the Department preparing its response to the Court of Appeals ruling the previous month, Hirten "asked whether EPA could agree to postpone formal comment until a revised draft could be circulated for review." EPA agreed, subject to agreement by the Council on Environmental Quality to the delay and "the draft statement could be substantially reviewed and improved to assure full compliance with" Federal requirements.

With the council's concurrence, EPA and the Transportation Department planned to work on the environmental statement, but by mid-December, according to the memo, Virginia and District

officials had objected to the idea of withdrawing the impact statement. “They want the EPA comments out in the open. Therefore, DOT is now saying that EPA should sign and send their comments.” [Barnes, Fred, “Memo Bares Effort to Gag EPA on 3 Sisters,” *The Evening Star*, June 27, 1972]

The End of the Freeway Trauma?

On December 28, 1971, a short-handed city council voted, 6 to 1, in favor of 7.8 miles of the remaining Interstate network. Councilman Robinson was out following surgery; Councilman Yeldell had been named director of the Department of Human Resources and the President had not yet nominated a replacement.

The action excluded the North-Central Freeway (I-70S) to Silver Spring and the Northeast Freeway (I-95) to the Capital Beltway. The city council accepted the I-66 freeway in the K Street corridor, but did not decide whether it would be a six-lane tunnel, a depressed roadway, or an expanded surface road. It also supported the Industrial Highway in the New York Avenue corridor and the East Leg of the Inner Loop from Bladensburg Road, NE., to the Southeast Freeway.

Councilman Tucker cast the dissenting vote because he opposed the K Street Freeway, the East Leg, and an interchange near Brentwood Village on Rhode Island Avenue, NE. He feared the construction impacts of the K Street Freeway as well as the displacement of 845 families. “We’ve got to stop moving people from one slum to another,” Tucker said.

Tucker had tried to secure approval to divide the transportation committee report into votes on individual routes so he could vote in favor of those he supported. However, he could not get a second. Councilman Willard, the council’s most avid freeway proponent, also could not get a second when he tried to secure approval to include the Northeast Freeway. He called the freeway a “vital artery” and said “it is in the long-range interest of this city and this metropolis.”

As the *Post* pointed out in its coverage of the city council’s action:

Yesterday’s freeway vote was in marked contrast to two previous Council votes on freeway plans in 1969 and 1970, when Council chambers were filled both with spectators and with building guards. Only about 10 persons attended, and only two building guards were in the meeting room, though more were in adjoining rooms.

The city council forwarded its recommendations to Mayor Washington for consideration as he completed the report to Congress required by the Federal-Aid Highway Act of 1970. Mayor Washington was not bound by the city council’s action. [Prince, Richard E., “2 Freeways Opposed by D.C. Council,” *The Washington Post and Times Herald*, December 29, 1971; Barnes, Fred, “Council Against 2 Freeways, North Central and Northeast,” *The Evening Star*, December 28, 1971]

On December 30, 1971, the District of Columbia and Secretary Volpe sent separate reports to Congress with their recommendations on the future of the District’s Interstate network. Both reports agreed on advancing 7.8 miles of freeways, excluding the North-Central Freeway and

Northeast Freeway. The reports retained the North Leg Freeway (I-66) of the Inner Loop along K Street, NW.; a small strip of the East Leg (I-295), and the Industrial Freeway. Neither report addressed the Three Sisters Bridge or the I-266 Potomac River Freeway, which were not included in Section 129 of the 1970 Act.

Secretary Volpe's report differed from the city's report in recommending that the I-95 Northeast Freeway should not be built "at this time" but "there is enough doubt in our minds that it might be needed in the future." He preferred the Industrial Highway in the New York Avenue corridor to link with the Baltimore-Washington Parkway. However, he did not rule out the Northeast Freeway because he was concerned that the new highway in the New York Avenue corridor might not be able to handle traffic volumes that would be shifted from an unbuilt Northeast Freeway carrying I-95 traffic.

He emphasized the importance of Metro, saying, "the Metro rapid rail system, along with improvements to the arterial street system and bus service innovations plus improved commuter rail service, can provide" the needed transportation service.

He also was concerned about building a six-lane tunnel under K Street to link the approaches to the Three Sisters Bridge with the New York Avenue freeway because of the high cost and disruption. "Therefore, I recommend that a connector facility be built . . . using a design suitable by service, safety and environmental standards."

The Secretary also supported construction of the Palisades Parkway, which was not included in Section 129. It ran along the Potomac River from the Three Sisters Bridge to link with the existing George Washington Memorial parkway in Montgomery County. He recommended early completion "as a necessary link the area parkway system."

Mayor Washington's two-page letter endorsed the city council's recommendations.

At a press conference, Secretary Volpe said the recommended freeways would provide the "balanced transportation system" that President Nixon and many others had favored. When a reporter asked him to predict the congressional reaction, he said, "We'll have to await the 1972 Federal-Aid Highway Act."

With Congress in recess, reporters could not easily secure their reaction to the two reports. However, Chairman Kluczynski told reporters he would not comment until he had a chance to read them. He had scheduled hearings on the 1972 Act to begin in January, with the District freeway situation one of the issues that would receive close attention.

Release of the reports gave the *Star's* Fred Barnes an opportunity to review the status of all the routes covered by Section 23 of the Federal-Aid Highway Act of 1968. Of course, the Three Sisters Bridge was on hold pending an appeal to the Supreme Court. The city could not move forward on the Potomac River Freeway until the future of the bridge was resolved.

Barnes continued:

A section of the East Leg running from the Southwest-Southeast Freeway to the 11th Street Bridge has been completed, and construction of another segment is underway to Barney Circle.

But the section from the circle to Bladensburg Road NE, also ordered by Congress in 1968, has been delayed for various reasons.

It is the final part of the East Leg, proposed to run for about a mile along Mt. Olivet Road NE to an interchange near Rhode Island Avenue NE and the B&O railroad tracks, that was recommended yesterday by Volpe and Mayor Washington.

Congress also had ordered the city to build the Center Leg of the Inner Loop along 2nd Street, NW., from the Capitol to New York Avenue. Construction was underway. [Barnes, Fred, "Congress Gets Freeway Plans," *The Evening Star*, December 31, 1971; Eisen, Jack, "Volpe Urges Dropping of 2 Freeways," *The Washington Post and Times Herald*, December 31, 1971]

The reports prompted the *Post* to title an editorial: "The End of the Freeway Trauma?" It began:

Could it be that, as we begin the new year, we leave the decade-old National Capital Freeway Hassle behind us?

The reports, the editorial explained, had deleted the controversial North-Central Freeway and the Northeast Freeway, but the "even more emotional issue of the proposed Three Sisters Freeway Bridge was luckily not under discussion." Its fate was "to be decided by the Supreme Court."

As for the failure to comply with the recommendations in the consultants' report, they were "hardly sacrosanct." They were aimed to "advance the interest of their clients." In this case, the client was the city's highway department, which may have favored the highways but serves the interest of the people as defined by the mayor and city council.

Now it was up to Congress:

We are sure, however, that even the pro-freeway forces in Congress will now go along with what we feel is a consensus of the wish of this metropolitan community of nearly three million people. Congress will also understand, we hope, that this 7.8 mile agreement is not a commitment for eternity but, along with the Metro, a sensible solution of the area's transportation problem as far as it can be foreseen in a period of rapid technical and urban change. ["The End of the Freeway Trauma?" *The Washington Post and Times Herald*, January 5, 1972]

Editors of the *Star* were less certain. "A New Year in the District of Columbia devoid of controversy over freeway construction would seem abnormal indeed." The two reports were "hardly calculated to break the pattern." Congress would take up the issue soon enough, but two elements of the reports were likely to "draw sparks of controversy." First was the proposed Industrial Highway to carry I-95 traffic instead of the Northeast Freeway. "The proposition, in our view, is wholly inadequate." Second, the reports called for "still more studies" to resolve issues about the downtown segments.

Still, the reports offered a hope that “this ridiculous impasse” could be nearing an end. Secretary Volpe and Mayor Washington had accepted “the concept of an inner-city freeway network which – if it ever begins – could keep the road builders busy for some years to come.” The pending hearing on the 1972 Federal-aid legislation could “provide a political mechanism – where none existed before – to resolve the uncertainties once and for all.”

Meanwhile, the Nixon Administration had not yet submitted its appeal to the Supreme Court on the Three Sisters Bridge:

That action could improve the over-all political atmosphere immeasurably, and should be taken well before the House hearings begin. [“Freeways: Back to Congress,” The Evening Star, January 5, 1972]