

The D.C. Freeway Revolt and the Coming of Metro
Part 9
Post-Revolt

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Part 9 Post-Revolt

Why Did Chairman Natcher Do It?

As 1971 ended, *The Sunday Star* magazine *Washington* carried an article by Kentucky-based journalist Ward Sinclair trying to explain Chairman Natcher's role in the long freeway-subway impasse. Sinclair recalled the usual feature of 62-year old Natcher's life – his goal as a young lawyer to be part of the U.S. House of Representatives; his safe seat in Kentucky (17 years in the House at the time of the article); his personal life as a teetotaling nonsmoker who avoided social outings; his pork-barrel interests on behalf of the locks, dams, and lakes in Kentucky; his refusal to talk with reporters outside his home district; his failure to accept campaign contributions, including contributions from the highway lobby; and his pride in his perfect voting record:

The trouble with most of the theories about Natcher's recalcitrance, and they abound in these parts, is that the theoreticians try to decipher his motives on their own terms – not on William Natcher's terms He defies all the popular myths.

He had won a seat in the House in a special election in 1953:

Once Natcher got to Washington, he lost no time in getting to know the right people and doing the right things to cement himself in Congress. He knew the appropriations committee was the right place to be, so he made friends with the late chairman, Clarence Cannon, and later, in 1962, as a favor to Cannon, Natcher accepted the chairmanship of the D.C. appropriations subcommittee, a thankless but necessary task.

Most Members of Congress tried to avoid service on the District committees, much less a chairmanship, which had many challenges and few rewards for their home district or State:

The District of Columbia is a brushfire. With it come two of the most thankless jobs this side of indexing the C&P telephone directory – the chairmanships of the House and Senate appropriations subcommittees for the District. Only an infinitely patient and detail-devoted man, at ease with the line-by-line minutiae of a monumentally boring D.C. budget, could handle the task without (1) going batty or (2) lousing it up completely

Many of his colleagues consider him one of the more powerful men in the House, by virtue of his No. 2 ranking on appropriations subcommittees for agriculture and labor-health, education and welfare, and by virtue of his close rapport with top men in the Democratic leadership.

Why, then, would this dedicated Congressman take on the abuse that was heaped on him for his refusal to release the subway funds?

Natcher's interminable obstinacy over funding of the metropolitan subway system has earned him more contumely than he probable deserves, but Natcher doesn't mind being a lightning rod for Congress. He would never suggest that Congress as a whole should take the blame. He would never suggest that blame more logically ought to be aimed at the

public works committees. It isn't his way. So, in Northeast Washington, they call him a racist. In Georgetown, the taffeta ladies summon up their highest dudgeon and call him a wretch. The frustrated patriots of Northwest just call him a lousy politician

In reality, none of these easy epithets will do for Natcher, because he is many other things: exasperatingly stubborn, unforgiving of the treacherous, paranoically suspicious, unrelentingly private, regally indifferent to his critics, maddently self-righteous, possessed of a sense that he is somehow to make history.

Sinclair identified two recurring themes in Chairman Natcher's public statements that "go a long way toward illuminating the basis for his repeated refusals to release the city's portion of the money needed to continue work on the rapid transit system. The first theme was the chairman's "disdain for deception," a view that "a man's word is his word," and a refusal to "play cute semantical games with him." That was how he considered the words and actions of "certain local functionaries":

There were promises to forge ahead with the D.C. freeway system that Natcher so fervently thinks is necessary; and yet, in fact, the system was not forging ahead.

Although the causes of the delays – "slow-moving studies, litigation and injunctions" – may have been beyond local control, Chairman Natcher "tends to think not." He often cites NCPC's reversal of its brief support in 1966 for the freeways as soon as he released the subway funds.

The second theme was Chairman Natcher's "personal view of the majesty and infallibility of Congress." As he made clear before the House voted to reverse his stand, the prestige of Congress as a coequal branch of the Federal Government was really what was at stake. When Congress passed a law, it "must be obeyed without question by all the people." Given his view on this subject, "the freeway question [was] cut and dried":

Congress wants the freeways built – witness the 1968 and 1970 federal-aid highway acts, which decreed that the District of Columbia would do such and such to complete its road system

He was not swayed by the argument that Congress did not tell Bowling Green, Kentucky, or any other city where to put its roads. He was not swayed by colleagues, such as Senator John Sherman Cooper of Kentucky, that forcing a vast freeway system on a city that does not want it was wrong:

Congress has acted, the law is the law. He remarked in one recent conversation that he would insist the law be complied with "until Congress tells me otherwise"

From this stance, the only alternative for dealing with those who so blatantly flout the mandates of Congress is not to submit to their vague promises, but to hit them where it hurts – cut off the money they so badly want for the subway. Pinch so hard that they'll have no recourse but to get moving on freeways.

Representative Giaimo admired Chairman Natcher, but had told him early in 1971 “that I couldn’t in good conscience go along with him any more” on the subway funding freeze. When the vote in May sustained Chairman Natcher’s decision by a smaller margin than expected, “He disagreed with what I did, but he didn’t hold it against me. He took the amendment with grace”:

Giaimo tried again this month by moving to restore the subway funds. This time he pulled off the stunning rebuke of the leadership, but only after the White House had deployed its heavy lobbying artillery on the Hill. Presumably, Natcher now understands he had been told “otherwise” by Congress. And if Giaimo is correct in his estimation of his chairman, the subway holdup is a thing of the past. [Sinclair, Ward, “Subways Are For Stalling,” *Washington/The Sunday Star*, December 26, 1971]

Clearing the Air

On January 19, the *Post* carried a letter to the editor from Angela Rooney of the National Coalition on the Transportation Crisis responding to the editorial “The End of the Freeway Trauma?” Rooney, a founder of ECTC, wrote that the “freeway trauma” was not over “if for no other reason than that 7.8 miles of Interstate freeways cannot do anything but worsen an already critical air pollution situation in this metropolitan area.” She wrote that Secretary Volpe, Mayor Washington, and the city council had recommended this mileage to Congress “without recognizing the necessity of making a detailed statement of the environmental impact of the roads as required by Section 102(2)(C) of the Environmental Policy Act.”

As for the editorial’s assertion that the officials were representing the wishes of the community, a review of recent “so-called hearings” would “put the matter straight”:

The Federation of Civic Associations . . . soundly rejected all new freeway construction and called for a boycott of “hearings” because they were not held in accordance with federal laws and regulations. Their anti-freeway position was reinforced by Maryland public officials. In 10 years there has been no public support for more freeways except for certain special business interests, a fact that goes a long way in explaining the Post’s wishful thinking. [Rooney, Angela, “Freeway Trauma,” Letters to the Editor, *The Washington Post and Times Herald*, January 19, 1972]

The Justice Department, with support from the D.C. corporation counsel, submitted a 20-page brief, supported by 219 pages of lower court opinions and legal citations, to the Supreme Court on January 17, 1972, seeking overturn of the U.S. Court of Appeals’ ruling on the Three Sisters Bridge. The brief denied that the Department of Transportation had taken procedural shortcuts in approving construction. The petition raised two issues for Supreme Court consideration:

- (1) Did the planning, environmental, and other requirements of Federal law prevent Secretary Volpe from approving projects before ‘final plans’ had been approved?
- (2) Did the 1968 law, with its “notwithstanding” language, take precedence over generally applicable highway procedures?

The brief made clear:

The congressional directive that this particular bridge be constructed, as planned, without further delay is, we submit, a complete answer to the present litigation.

Further, the “intent of Congress that the Three Sisters Bridge be constructed” and that construction should start within 30 days following enactment of the 1968 Act “has been thwarted by the court of appeals.”

In a footnote, the brief dismissed Judge Bazelon’s contention about the undue political influence on Secretary Volpe. “We . . . do not consider Chief Judge Bazelon’s views on that subject in this petition.” The footnote pointed out that neither of the other judges in the three-judge panel had concurred on this point. [Eisen, Jack, “Ruling Asked on 3 Sisters,” *The Washington Post and Times Herald*, January 18, 1972; Barnes, Fred, “Bridge Plea Taken to High Court,” *The Evening Star*, January 19, 1972]

On January 19, Representative Conte, in extended remarks on the House floor, said the petition “manifests a clear, responsible fulfillment of the administration’s pledge to take all possible legal steps to permit completion” of the Three Sisters Bridge. This action “should satisfy” those who opposed release of the District’s Metro funding “on the grounds that the executive branch was dragging its feet” on the project. The petition represented “a clear, responsible fulfillment of the administration’s pledge to permit completion of the project.”

He placed a January 17 letter he had received from Secretary Volpe in the record citing the two principal arguments in the brief:

First, we contend that the decision of the Court of Appeals, by its requirement that nothing be done until final plans for a project are approved, would frustrate highway planning nationwide. Secondly, we contend that Congress, in enacting Section 23 of the Federal Highway-Aid Act of 1968, directed in no uncertain terms that construction of the Three Sisters Bridge be commenced within 30 days, any other provision of Federal law to the contrary notwithstanding.

Representative Conte expressed his “earnest hope” that the Supreme Court “acts favorably on the Government’s petition and that the Congress will now give its unqualified support to completion of the vitally needed Metro project.” [“Resumption of Work on Three Sisters Bridge,” *Congressional Digest-House*, January 19, 1972, pages 317-318]

The same day, Representative Giaimo addressed a luncheon of the Greater Washington Central Labor Council. He said he expected Congress to approve a bill providing a Federal loan guarantee for Metro bonds. Failure of the bill would “injure the Metro fatally” because its bonds would be impossible to sell. “Frankly, I’m optimistic. I think we’ll be successful,” he said. As for the Three Sisters Bridge appeal, he said, “When the Court rules, then we’ll know whether or not there will be a Three Sisters Bridge, which I want to see constructed.” [Eisen, Jack, “Metro Bill is Predicted by Giaimo,” *The Washington Post and Times Herald*, January 20, 1972]

The *Star*, in an editorial, expressed the hope that the Supreme Court would accept the appeal “and resolve the issues as expeditiously as possible.” The review was “surely warranted” in view of Judge Bazelon’s “tortuous interpretations of law”:

The Justice Department accuses Bazelon of interpreting various environmental and planning safeguards expressed by Congress in a manner that thoroughly distorts and “misconceives the purpose of these provisions.” Its brief asserts: “Compliance with the court of appeals’ view . . . would, in most instances, result in substantial delays and require substantial additional expenditure of public funds and would, in some instances, be almost impossible.”

Congress could be expected to involve itself in the issue again in the pending Federal-Aid Highway Act of 1972. However, the “crucial issues involving the bridge . . . rest now with the Supreme Court, posing roadblocks of national and local significance which urgently need removal.” [“Nixon’s Bridge Appeal,” *The Evening Star*, January 22, 1972]

Air Quality Plans

President Nixon had signed the landmark Clean Air Act (CAA) of 1970 on December 31, 1970. The CAA directed the new EPA to establish National Ambient Air Quality Standards (NAAQS, pronounced “Knacks”) that every State must achieve by 1975. Each State was to develop a State implementation plan to achieve that goal by reducing pollution for sources that were stationary (factories, for example) and mobile (motor vehicles). The plans were due January 31, 1972.

The District’s Department of Environmental Services, the Environmental Health Administration, and the Bureau of Air and Water Control submitted a 354-page State implementation plan to EPA for reducing air pollution. The study, titled *Implementation Plan for the Control of Carbon Monoxide, Nitrogen Dioxide, Hydrocarbons and Oxidants*, found that 95 percent of total pollutants in the city were from motor vehicles. They discharged 19,574 tons of particulates into the air, along with 57,046 tons of sulphur oxides, 279,189 tons of carbon monoxides, 37,338 tons of hydrocarbons, and 39,311 tons of nitrogen oxides.

For mobile source pollution, the District’s plan to achieve its NAAQS was similar to plans from around the country by placing much of the burden on commuters by forcing about 100,000 of the estimated 400,000 commuters in 1975 to use buses instead of cars. To accomplish this 25-percent reduction in commuter use of cars the report proposed several steps:

- Banning on-street curb parking in the downtown area;
- Raising taxes on commercial garage operators to force them to increase their parking fees;
- Impose a “drastic increase” in fees for all-day parking on commercial lots;
- Force an “immediate suspension of subsidy” by District and Federal agencies for employee parking fees;

The city had 140,413 commercial, private, and curb parking spaces; the goal was to reduce this number by between 20,000 to 25,000 spaces. Doing so while increasing costs would “create a

problem for the present commuter using private automobiles” that would force commuters onto public transit. The city proposed to spend \$32 million for new buses to carry those new transit commuters.

The District rejected a preliminary proposal to ban all Maryland and Virginia cars from the city during the day. When news of the idea had been reported, Senator Spong warned Mayor Washington that the plan “would generate substantial ill-will and . . . result in retaliatory action at District residents.” Mayor Washington informed the Senator that the city had rejected the idea “when reasonable alternatives to private automobile transportation are available.”

The city also proposed conversion of government and private fleet vehicles from using gasoline to using gasoline-and-propane or gasoline-and-natural gas for fuel. The report estimated the conversion would cost \$400 per vehicle.

The plan also called for steps to encourage car pools. The present passenger car occupancy in the city was 1.3 people. The steps taken would cause people to form car pools for their work-related trips.

Virginia’s Air Pollution Control Board’s State implementation plan also focused on automobile use in northern Virginia. Development of Metro was “perhaps the best method to cut down air pollution” in the area, but would not have any impact by the target year of 1975. In the interim, Virginia’s Air Pollution Control Board called for increased downtown parking rates, a computerized car pool registry, and more dedicated express lanes such those in use on I-95/Shirley Highway.

Maryland’s Health Department agreed that curbing the automobile was the key to reducing air pollution, but argued to EPA that the problem was not so much cleaning up Montgomery and Prince George’s Counties as cleaning the air over the District of Columbia. Officials argued that achieving NAAQS in the region by 1975 was not realistic; they asked for a 2-year extension on compliance to allow area officials to identify ways to reduce motor vehicle use in the metropolitan area.

Edward L. Carter of the Maryland Bureau of Air Quality Control said the extension was needed because the District had the most polluted air in the region. Reductions in the surrounding counties were possible, but District air did not honor State line boundaries.

Overall, Carter said that changing the habits of commuters was the key:

Some jurisdictions have come up with plans which may or may not be workable depending on whether you can get people to reduce their use of automobiles. Until you come up with measures to force people to use mass transit and reduce automobile traffic, voluntary plans will not have a significant impact on the automobile population. Until you have the power to require that certain things be done, you can propose anything you want.

Maryland's plan was similar to the District's proposals to shift motorists from their cars to transit. The State implementation plan also proposed charging tolls to enter freeways and use congested roads at peak traffic hours, reduced bus fares, and increased gasoline taxes in urban areas, including an annual pollution tax on motor vehicles based on the number of miles driven and the size of the engine.

[Gay, Lance, "D.C. Proposes Steps To Reduce Traffic," *The Evening Star*, February 1, 1972; Scharfenberg, Kirk, "City Clean-Air Plan: Cut Commuter Cars," *The Washington Post and Times Herald*, February 1, 1972; "Suburban Car Ban Rejected by D.C.," *The Washington Post and Times Herald*, January 29, 1972; Landers, Jim, "Virginia Drafts Clean-Air Plan," *The Washington Post and Times Herald*, February 2, 1972; Walsh, Edward, "Md. Asks Delay in Deadline," *The Washington Post and Times Herald*, February 5, 1972]

Almost immediately after the District's plan went to EPA, Chairman Hahn told reporters that the plan was not the city's official plan. Neither Mayor Washington nor the city council had seen it, much less approved it. "I had no idea this thing was going out," he said. "No one on the council saw it. The mayor didn't know it was going out. Councilman Willard's Committee on the Environment would hold hearings on the proposals on February 8 "to try to rectify the damage" release of the report had caused.

Mayor Washington's aide, Julian Dugas, told reporters, "It's a workable proposal forwarded to meet EPA regulations to be eligible for federal grants. But there are a lot of hard policy questions to be considered before we can accept that stuff." In a press release, Mayor Washington's office said that "until the new regulations are adopted by the City Council the plan is an administrative guide – a sort of workable program." The proposals were merely "possible control measures" and that "all developments require careful meshing" to avoid adverse effects on the District's economy. [Critchfield, Richard, "Commuter Plan Hit, Hearing Set Tuesday," *The Evening Star*, February 3, 1972]

Star editors picked up on the city's reaction to the "wacky EPA report." After outlining the District's plans for the "miracle" of a one-fourth reduction in automobile commuting through parking restrictions and new buses by 1975, the editors wrote:

Now even the most ardent anti-internal combustionist would have to agree that – clean air aside – that's a devil of a three-year commitment for any modern city government to make. And guess what? The District hasn't made it

But whatever the facts as to that part of the bureaucratic snafu, Hahn's assurances that the absurd proposal to curtail the District's already inadequate parking supply "is not city policy" – and is not apt soon to be – are good to hear. As Hahn, no great friend of the automobile himself, puts it: "You can't cut out parking for people who need to get here until you provide a practical alternative."

The time may come for such drastic tactics, "although frankly we doubt it now," but at this time, the plan's goals remain "largely a dream." The most "attractive, workable transit system" was

Metro, and it had a long way to go before it could provide the needed areawide service to reduce automobile use. [“Clean-Air Foulup,” *The Evening Star*, February 4, 1972]

(Plans for reducing air pollution in cities around the country were greeted with similar doubts and outrage.)

In a February 8 special message to Congress on the 1972 environmental program, President Nixon proposed a range of congressional actions, including one to address sulfur oxide emissions, “one of the air pollutants most damaging to human health and property, and vegetation.” He asked Congress to impose a charge on sulfur emitted into the atmosphere “from combustion, refining, smelting, and other processes.” Beginning in 1976, the charge would be 15 cents per pound of sulphur “emitted in regions where the primary standards – which are designed to be protective of public health – have not been met within the deadline” for compliance with the Clean Air Act. In areas that met the standards but exceeded the secondary national-standard, the charge would be 10 cents per pound. Areas that met primary and secondary NAAQS would be exempt from the charge:

The charge is an application of the principle that the costs of pollution should be included in the price of the product. Combined with our existing regulatory authority, it would constitute a strong economic incentive to achieve the sulfur oxides standards necessary to protect health, and then further to reduce emissions to levels which protect welfare and aesthetics.

The same day as the President’s message to Congress, Chairman Willard held a Committee on Environment hearing on the District’s State implementation plan. In what the *Star* described as an “acrimonious hearings,” Michael Stenberg, deputy chief of EPA’s regional office in Philadelphia, warned that the city was “technically in violation of the law” because the plan submitted to EPA by the deadline had not been approved by the city council or mayor. The city would have until July 30 to submit an approved State implementation plan. If the city did not do so, EPA would design the plan to comply with the Clean Air Act.

Sammie Abbott also participated in the hearing. He pointed out that city children showed levels of lead that were at dangerous levels. He also criticized Environment Committee Chairman Willard, the city council’s most ardent freeway supporter. Abbott said Willard had “as much right to sit in there as Al Capone does . . . on a committee on law order.” [Carper, Elsie, “Pollution Tax Aired By Nixon,” *The Washington Post and Times Herald*, February 9, 1972; Hill, Gladwin, “A Polite Nudge on Environment,” *The New York Times*, February 9, 1972; Fahnestock, Sheridan, “Clean It Up,” Metro Wrapup, *The Evening Star*, February 9, 1972; “U.S. Tells D.C. to Clean Air,” *The Washington Post and Times Herald*, February 9, 1972]

President Nixon’s Plans for the Bicentennial in the District

On February 4, 1972, President Nixon released a Special Message to the Congress Outlining Plans for the Bicentennial Observance in the District of Columbia. The central challenge of the Bicentennial was to plan for the observance “on the move,” he said. “We can best forge such a spirit, the [American Revolution Bicentennial] Commission went on to recommend, by

approaching the Bicentennial as an occasion both for understanding our heritage better and for quickening progress toward our horizons”

For the District of Columbia, two goals “for forging a better future” were improved schools and building the Metro subway system:

METRO, and all of the other elements which with it will comprise a balanced modern transportation system for greater Washington, are central to Bicentennial plans for the District. We need the pride of achievement in area wide cooperation which the system will give all communities taking part. We need its people-moving capacity to cope with visitor traffic which may average up to 100,000 people daily throughout the anniversary year. I am today renewing the commitment of all the agencies and resources of the Federal Government toward maximum progress on the entire transportation system –

subway, freeways, bridges, parking, and support facilities – before 1976. The action of the Congress in December to support continued METRO funding was enormously heartening to the people of the Capital region; it gave, in fact, a glimmer of hope to beleaguered commuters everywhere. The grim Thanksgiving prospect of a great many excavated streets to fill back in has now become the far brighter prospect of at least 24 miles of operating subway – the most modern anywhere – by 1976. Urgently needed now is prompt approval by the Congress of Federal guarantees for METRO revenue bonds – the next essential step to getting the trains running.

He was particularly interested in construction of a Metro station at Arlington National Cemetery, “for which funds are requested in my new budget.” In addition to providing easy access “from Washington to the Arlington shrine . . . it would offer the arriving visitor one more convenient transfer point from private to public transportation on the way into the Capital itself.”

He had directed Secretary Volpe “to coordinate interagency action plans for supplementing those subway lines in service by 1976 with a cooperated network of other public transportation on which visitors can move from fringe parking areas (to be developed under these plans) to points of interest nearer the city center.”

About That Balanced System

Opponents of the Three Sisters Bridge, represented by Owen and Norton of Covington and Burling, filed briefs with the Supreme Court on February 16 opposing review of the U.S. Court of Appeals’ ruling.

They contended that the issues involved were local in importance “with no national implications of any kind.” The Supreme Court, the brief said, had a “longstanding policy . . . not to review such local decisions.” Further, a Supreme Court ruling would apply only to the bridge case and have little bearing otherwise because the circumstances were “unique in the history of the federal highway program.” The brief explained:

It is inherently improbable that any repetition would ever occur as a practical matter, and it is also the fact that there have been recent developments in the law which make any real repetition virtually impossible.

As a result, the Justice Department and District of Columbia were asking the court to rule on the facts of the case rather than the law.

Owen and Norton also disputed those facts, particularly as to the will of Congress. The governments' petition "inaccurately characterizes the statute as requiring that actual construction commence within 30 days." The fallacy of this interpretation was "readily demonstrable." Section 23 of the Federal-Aid Highway Act of 1968 directed that the District "shall commence work" on four projects within 30 days. "Work" did not mean construction since "much planning and designing work remained to be done before any actual construction work could possibly commence on the bridge."

The brief pointed out that President Nixon had ordered the Justice Department to work with the Department of Transportation and the District of Columbia to appeal Judge Bazelon's ruling to the full Appeals Court and, if unsuccessful there, to the Supreme Court. "While the President's order had the desired effect of placating Mr. Natcher and obtaining release of the subway funds, it also serves to distinguish [the case] . . . from normal government . . . petitions which are filed by the solicitor general on his own initiative." [Barnes, Fred, "Reject Bridge Case, High Court is Asked," *The Evening Star*, February 17, 1972; Eisen, Jack, "Foes of Three Sisters Bridge Oppose Review of By High Court," *The Washington Post and Times Herald*, February 17, 1972]

The President's order was generally thought to have been decisive in securing release of the District's Metro matching funds. Further, according to capital area adviser Krogh, the White House was planning to give the "strongest possible support" to the legislation authorizing a Federal bond guaranty for Metro. "We're approaching this issue with the same degree of seriousness – and perhaps even more – than [sic] we approached the vote on the House floor last December," he told reporters. "We'll go all the way – whatever it takes." [Angle, Martha, "Nixon Set to Push for Bond Guaranty," *The Evening Star*, February 13, 1972]

The Joint Hearing on Metro

The unusual joint hearing of the House and Senate District Committees on the bond guarantee took place on March 1 and 2, 1972. Representative Earle Cabell (D-Tx.), chairman of the Subcommittee on Business, Commerce, and Fiscal Affairs of the Committee on the District of Columbia, and Senator Eagleton, chairman of the Senate Committee on the District of Columbia, were the presiding officers.

Chairman Cabell, a businessman who had been mayor of Dallas (1961-1964) when President Kennedy was assassinated in that city, said that everyone present was "conscious of the need for the construction and implementation of our METRO system." He listed five questions that the hearings were intended to address:

- (1) Has the costly delay in this construction been the fault of the Congress, or the fault of the people of the District of Columbia in this refusal to abide by the provisions of existing law relative to any existing highway laws?
- (2) Can this project be self-liquidating as originally proposed? Will the fare box liquidate these bonds?
- (3) Have the Metropolitan Transit Authority exercised their best judgment in the expenditure of its available funds to this point? Have they been diligent in conserving their funds?
- (4) What is the difference between anticipated revenues, after initiation of operations, and its operating and debt-service costs?
- (5) How many dollars is it anticipated that the U.S. Treasury must pick up in order to meet the bond commitments which they (the Treasury) are guaranteeing?

After brief supportive comments from area Representatives Hogan, Broyhill, and Gude, Secretary Volpe appeared before the joint committee. Since becoming Secretary, he said, he had stressed the principle of “a balanced transportation system, a system which offers a true modal choice to all our citizens.” The Nation’s capital was advancing such a system, with Metro the key to “an efficient public transportation system” for the metropolitan area. “METRO will be the heart of the system. It is the keystone of a coordinated transportation system and essential to the effective performance of the Federal Government.”

Fortunately, the legislative and executive branches were fully committed to Metro. He cited President Nixon’s February 4 special message to Congress outlining plans for the Bicentennial in the District. The President had said that Metro, as part of a “balanced modern transportation system,” was central to the plans because its “people-moving capacity” was essential to coping with the hundreds of thousands of people expected to visit the city in 1976. Secretary Volpe quoted the portion of the statement in which the President committed all agencies to make maximum progress on construction, and urged Congress to approve Federal guarantees for the revenue bonds.

Secretary Volpe was heartened by the physical progress of Metro, with 9 miles under construction and 11 stations under contract. WMATA was addressing a wide range of issues, including what the Secretary referred to in quotes as “people problems” typical of any major construction project in a big city. “Unfortunately, a new problem has arisen, a financial problem which threatens to halt the progress which has been made”:

Having been in the construction industry most of my adult life before I went into public service, I can attest to the fact that the period between 1969 and 1971 was the period of probably the greatest rise in construction prices and construction wages of any period I can remember in the last 40 years. So, it is not anything that could have really been foreseen.

As a result, “WMATA’s financial advisers, securities underwriters, [concluded] that the absence of additional security seriously impaired the marketability of the METRO revenue bonds.” The proposed legislation would “assure the orderly financing of the METRO system.” Despite all the progress to date and the obstacles overcome, “additional help from the Federal Government is necessary.”

In response to a question from Chairman Cabell, Secretary Volpe explained that the role of the Department of Transportation would be to “serve as a conduit between the Congress and WMATA.” He said:

We would be reviewing, on a timely basis, the reports and the progress of WMATA. As the legislation requires, we would not issue or give permission for the issuance of bonds unless we were satisfied that there was a reasonable prospect for WMATA to pay off the bonds.

Aside from a role in assuring the success of WMATA, the Department would serve “as the eyes and the ears of the Congress, to transmit to you any information which we felt you ought to have with regard to this situation – such as financial reviews.”

Representative Nelsen asked if, in view of the support for a balanced transportation system, “the highway part of this system is now moving as it should?” Secretary Volpe replied that the highway system was “moving as rapidly as the Department of Transportation and the D.C. Highway Department, are able to move consistent with the statutes that the Congress has enacted and by which we must abide.” The Department had “done everything we possibly could do to bring about the construction of the freeway system that was feasible and which the Congress asked us to build and, in some cases, asked for our thoughts concerning.”

He offered to submit FHWA’s latest monthly status report on the freeway network. On a national basis, “I am not supposed to look at each individual project’s progress.” However, “this is the Capital City and the President expressed to me on a number of occasions his desire that I give as much time as possible to see to it that progress is continued on all modes of transportation here in the Capital City.”

Representative Nelson appreciated the offer because even if the bond guarantee bill passed the House District Committee, “we still must go out on the Floor of the House” for a vote:

There has always been a great debate as to whether or not there has been foot-dragging, and what can be done and what should be done, in order to move the balanced transportation system, as you indicated.

The FHWA’s report was submitted by E. H. Swick for Administrator Turner on March 1, 1972:

Three Sisters Bridge

A Petition for a Writ of Certiorari was filed with the Supreme Court during the month of January. Opponents of the bridge filed a brief on February 16, urging the Court to deny the Government’s petition. The Court has not ruled on the matter to date.

Potomac River Freeway

The National Capital Planning Commission’s consultant, Wallace, McHarg, Roberts and Todd (WMRT) is at work on land use studies for the Georgetown Waterfront. The Highway Department’s consultant, Sverdrup and Parcel, has prepared preliminary engineering drawings for four alternate design concepts, and has provided those drawings to WMRT for its use in preparing alternate corridor development plans. Alternate plans

and a 4(f)/Environmental Impact Statement are to be completed by the end of March 1972 after which a design public hearing will be held and a single development concept selected.

The work of WMRT is being periodically reviewed by the Interagency Coordinating Committee, through which we are represented by Messrs. Hirten and [Asaph] Hall [Special Assistant to Deputy Under Secretary John P. Olsson].

South Leg of the Inner Loop (Lincoln Memorial and Tidal Basin Area)

Preliminary drafts of an Environmental Impact Statement . . . have been reviewed and are being finalized. It is anticipated that the Draft Environmental Impact Statement will be released and circulated for comments during the month of March. It is expected that a design public hearing will be conducted during the month of April.

Center Leg of the Inner Loop (West of Capitol)

Construction is in progress. Contract PS&E for the K Street bridge have been approved and the project has been advertised for bids. Design is continuing and an environmental impact statement is being prepared for the air rights housing project between H Street and K Street, Northwest.

East Leg of the Inner Loop (RFK Stadium Area)

Design studies are in progress.

North-Central Freeway

Northeast Freeway

North Leg of the Inner Loop

East Leg of the Inner Loop (portion north of Bladensburg Road)

These segments which were included in the D.C. Restudy are inactive at present, pending review by the Congress.

Representative Broyhill asked when the Secretary expected the Supreme Court to respond to the Justice Department's petition. With I-66 and access to Dulles International Airport partly dependent on I-266 and the Three Sisters Bridge, "it is almost like sitting and waiting for the other shoe to drop."

Department General Counsel John W. Barnum replied that the Supreme Court normally "clears up all such petitions for certiorari before the end of the term" in June, but the Department was hoping for a response "substantially before that." In the certiorari-petition stage, four Justices would have to agree to hear the case, but if that happened, the Supreme Court review would not take place until the fall.

Secretary Volpe added that the Department was working with the city, HUD, and NCPC "on an environmental plan and a layout for the Georgetown water-front which also ties into I-66." They also were working on plans for design hearings on other freeway projects. "So, we are not just sitting still waiting for" the Supreme Court. [Federal Guarantee of Bonds for National Capital Region Subway System, Joint Hearings before the Committee on the District of Columbia of the

United States Senate and Subcommittee on Business, Commerce, and Fiscal Affairs, of the Committee on the District of Columbia, House of Representatives, 92nd Congress, 2d Session, on S. 2297 and H.R. 11877, March 1 and 2, 1972, pages 1-3, 16-29]

The next witness was Jack F. Bennett, Deputy Under Secretary for Monetary Affairs, Department of the Treasury. The Treasury Department, he said, fully supported the proposed bill. The margin of safety for \$1.2 billion in bonds was satisfactory:

Over the life of these bonds, it has been estimated that this project will generate, in addition to meeting its cost and repaying the bonds and paying interest, something on the order of \$1.4 billion over and above those requirements. That would be on the order of \$15 million a year in some of the earlier years, rising on up toward \$100 million a year in later years. That is a margin of safety.

Beyond that, you probably recognize the bill itself provides that the guarantee cannot be issued until the Secretary of Transportation is satisfied that the Government is undertaking “an acceptable financial risk to the United States.”

The legislation further provides that if at any time the Secretary of Transportation decides action is necessary to protect the interest of the United States, he can direct such prudent action. [Federal Guarantee of Bonds for National Capital Region Subway System, pages 29-32]

Mayor Washington was scheduled to be the next witness, but had succumbed to the flu. Deputy Mayor Watt read the mayor’s statement. The statement explained the anticipated benefits of Metro:

METRO will mean many things for Washington: new development, both commercial and residential; expanded employment opportunities; improved access to work, business, retail, recreational, entertainment, and cultural centers; and strengthened ties among the various jurisdictions in the Washington area. I believe that METRO will greatly assist our efforts to create a viable regional cooperation which will stimulate our efforts to create a viable regional cooperation which will stimulate the health and vitality of center city and surrounding jurisdictions

Thus, the legislation before you today is extremely important because it will complete the financial plan necessary for the construction of the METRO system.

The goal was “to assure the orderly financing of the METRO system.” With passage of the legislation, “the system can be completed as projected and at the least cost to the Federal Government and the local participating governments.”

The bill, in Title II, also increased the District’s contribution from \$216.5 million to \$269.7 million, an increase of \$53.2 million. Comparable increases were anticipated for the surrounding jurisdictions. [pages 39-44]

WMATA officials also testified on March 1. After a brief history of the project, Chairman Fisher summarized the status of construction:

To the north of Union Station work is underway on the Rhode Island Avenue station and on the system's yard and shop facilities. South and west from Union Station, a cut and cover section of subway leads to Judiciary Square where a station is taking form under the various courts buildings. Much of the structural work from there to 7th and G Streets is nearing completion. Along G street, from that point to the Treasury at 15th Street, it is now decked over with work advancing beneath on two stations and connecting sections.

From 15th and G Streets, a 150-ton machine has tunneled under the corner of the Treasury property – which we are being sure is properly shored up – and under Lafayette Park enroute to Farragut Square. Mining then proceeds under Farragut Square to K Street.

Beginning at the Rock Creek intersection with the Connecticut Avenue section of the Rockville route, tunneling is moving rapidly toward Dupont Circle. Over a half mile of solid rock tunnel has been mined. To the south of Dupont Circle, Connecticut Avenue is largely decked over as work proceeds on two stations and the subway line connecting with the Farragut Square tunnel

Last June 17th, the participating Virginia local governments conducted a groundbreaking ceremony to celebrate the beginning of work in Virginia. Since that time a tunnel running from the system portal near the Iowa Jima statue under Rosslyn to the Rosslyn station is well underway. Tunneling under the Potomac has begun and the subway line along Eye [I] Street to Farragut Square, including two stations, is under construction.

In all, 11 stations and 9 route miles are under construction. And an additional 25 stations and 27 miles are under design contract. So you can see, METRO is no longer an abstraction.

Turning to the financing issue, Chairman Fisher told the joint hearing that the original financing plan depended on selling \$835 million in revenue bonds. Then WMATA found that the cost for the 98-mile system had increased by about \$500 million. Next came the difficulty of selling the bonds:

A second development which became apparent was that the proposed sale of revenue bonds could not be accomplished without additional assurance to the investor. Our financial consultants had concluded that some form of tax backup or guaranty would be necessary to attract investors. An additional problem associated with the sale of bonds involves the current rate of interest demanded by the market. Our original projections were an average of 5 percent on tax-exempt bonds. The current estimate is an average of 7 percent on taxable bonds.

After consulting WMATA's financial advisors and 16 of the Nation's leading underwriters, "it became clear that there was no possibility of marketing our revenue bonds with the existing

conditions.” Further, the interest rate assumptions made in 1968 were reasonable at the time, but “had been proven optimistic in today’s market place.” This change in interest rates meant that the bonds, if sold, would increase the amount of funding needed for interest payments and generate less revenue than expected for construction, thus further diminishing their salability. Although one option was to increase each jurisdiction’s contribution to the project, WMATA realized that “it was obvious that a taxing mechanism could not be arranged soon enough to avoid a hiatus in the funding of construction requirements.”

The pending bill to guarantee the revenue bonds had three advantages:

It will allow the immediate sale of bonds at the most favorable interest rate and thereby avoid any serious disruption to the planning construction schedule. It will allow up to 3 years for the local governments to consummate the necessary legal steps to provide for their increased shares. At the same time, the Federal interest will be protected since the sale of the additional \$300 million in bonds will be conditioned upon the development of suitable matching arrangements to preserve the Federal-local matching formula

We trust that the Congress will find the proposal consistent with the goals and standards which it has set over the past two decades.

After generally supportive questioning, the hearing ended for the day. [pages 44-57]

The second day of hearings continued the supportive statements from local jurisdictions and agencies.

Highway Funding for Transit

Traditionally, Congress considered reauthorization of the Federal-aid highway program every 2 years. In 1972, consideration began early, but was affected by issues that had been brewing since the mid-1960s when cities began taking over failing private-sector transit companies to maintain needed service. As with early projections for Metro in the Washington area, many cities thought that with efficient operation, they could run the systems with revenue from the fare box. Fairly soon, the cities came to understand that the fare box could not generate enough revenue and that some other source of funds would be needed.

The Highway Trust Fund, with its multibillion dollar balance, was a tempting target for those seeking transit aid, especially for cities trying to avoid tax increase to pay operating subsidies. Highway advocates explained that the balance was not unused money. The balance consisted mainly of highway user tax revenue committed to projects that were going to be under construction for several years. The traditional comparison was to a family checking account with a large balance, but numerous checks written and not yet cashed.

Transit advocates, Members of Congress from big cities, environmentalists, and urban planners were undeterred. By 1972, urban Interstates construction was sufficiently controversial that pro-transit forces argued the funds for unwanted Interstate highways should be used instead for transit, including operating subsidies – the biggest headache for cities.

Secretary Volpe, the former Federal Highway Administrator who had stated early in his tenure that the Highway Trust Fund should be restricted to highways, changed his mind. The Nixon Administration supported opening the Highway Trust Fund to transit in pursuit of a balanced transportation system for the Nation's cities. However, the Administration opposed Federal aid for operating subsidies, which opponents often referred to as "throwing money down a rathole."

The Secretary's proposal, released on March 14, 1972, recommended consolidating all existing urban highway and mass transit programs into a Single Urban Fund, with the exception of the Interstate program and minor transit initiatives. All rural highway programs would be consolidated into the Rural Federal-Aid System and a Rural General Transportation Fund.

Highway interests opposed the plan because it allowed diversion of Highway Trust Fund revenue to transit. Transit interests opposed it, too. Since the funds could be used for highways or transit, they feared that the powerful highway lobby would ensure that highway projects received most of the funds. In the absence of a constituency, Congress never seriously considered Secretary Volpe's bold move, but it reflected his change of thinking and the policies that the Department of Transportation would promote in coming years.

At the same time, the House and Senate Public Works Committees were dominated by road supporters who resisted diversion of Highway Trust Fund revenue. Further, in the Senate, the Committee on Public Works was not responsible for transit. In the early days of Federal-aid for transit, the Federal housing agency administered the funds. As a result, the Committee on Banking and Currency had jurisdiction over transit programs. It retained that jurisdiction even after the Federal-aid transit program was shifted to the Department of Transportation and administered by UMTA.

One of the committee's members, Senator Harrison A. "Pete" Williams, Jr. (D-NJ), was based in Plainfield and was the Senate's chief transit advocate. He had served in the U.S. House of Representatives (1953-1957) before winning election to the Senate in 1958. Early on, he adopted transit aid as an issue that was important to the Nation and his New Jersey constituents.

By 1972, advocates such as Senator Kennedy, Senator Lowell P. Weicker, Jr. (R-Ct.), and Representatives Koch and Bella Abzug (both D-NY) and other members of the New York City congressional delegation were among those introducing bills to create a mass transportation trust fund or a transportation trust fund, with much of the revenue coming from highway users whose revenue currently was credited to the Highway Trust Fund. The problem with a mass transit trust fund was that unlike the highway equivalent, increasing taxes on money-losing transit lines to stock the fund might reduce ridership.

The most influential alternative was the Muskie-Cooper amendment introduced by Senator Edmund S. Muskie (D-Me.), one of the Senate's most aggressive environmental advocates and a potential candidate for the Democratic Party's presidential nomination, and Senator Cooper, both members of the Committee on Public Roads. Their amendment would allow cities to use their Federal-aid urban system funds for traditional highway projects or transit, including rapid rail transit.

Senators Muskie and Cooper and other supporters of their amendment argued that it would allow local officials to use the funds for the projects that best met each area's unique needs. Opponents said that allowing the funds to be used for rail transit would violate the sanctity of the Highway Trust Fund, which was set up for highway purposes, and a betrayal of the highway users who were told their taxes went to the highway program.

The other unusual proposition was initiated by Secretary Volpe's successor as Governor of Massachusetts. Lt. Governor Frank W. Sargent became Governor to complete Volpe's term. Governor Endicott Peabody (1963-1965) had appointed Sargent one of five Commissioners of Public Works, in charge of the Division of Waterways, in 1964. Governor Volpe elevated Sargent in 1965 to be chairman and chief road builder. Shortly after becoming Governor, however, Sargent addressed a crowd of protestors assembled on the Boston Common for "People Before Highways Day" and assured them that he would never put freeways before people. The crowd, which booed when he appeared, cheered his unexpected new attitude.

Governor Sargent, the convert, decided not to build Boston's Inner Loop (I-695) or the extension of I-95 into the city from the southeast, the two most contentious remaining projects. Instead, he would revitalize the Boston area's transit network. The problem was that although no one, not even FHWA, could force the State to build a highway, but if it decided not to do so, the State and the city would lose hundreds of millions of dollars, and the jobs and economic boost that came with the dollars. The only alternative under current law was to shift the Interstate designation to another location that might prove less controversial.

Meanwhile, Governor Sargent did not have any obvious source of funds for the ambitious transit agenda he adopted. By 1972, Governor Sargent and his Secretary of Transportation, Alan S. Altshuler, had identified alternative routes elsewhere in the State, but were seeking a more flexible approach.

In early March, the Subcommittee on Roads of the House Committee on Public Roads began hearings on the 1972 highway legislation. When Secretary Volpe appeared before the subcommittee on March 16 his Single Urban Fund received what by then was the expected skeptical reception.

On March 21, the subcommittee heard from a delegation from Massachusetts, including Secretary Altshuler. He said his "primary purpose" was to urge support for "a very specific provision." At the time, the substitute Interstate mileage was limited to 200 miles, which had been committed by then:

We believe that a sufficiently flexible highway program must be able to accommodate the finding that in some urban corridors it is no longer feasible to carve new rights-of-way – and to do so without imposing harsh financial penalties upon the States involved. In these urban corridors, the States concerned will generally have to undertake large transportation investments, both highway and transit, of a noninterstate nature In cooperation with AASHO, we urge that Interstate funds be made available for reassignment to meet these needs where such reassignment is compatible with the objectives of the Interstate program.

Secretary Hughes of Maryland testified on the same issue. He said that Maryland had built or programmed 358 miles of Interstate highway. But about 30 miles in the Baltimore area and Maryland's Washington suburbs are unbuilt. This unbuilt mileage included I-95 and I-70S inside the Capital Beltway as well as segments of I-70N, I-83, I-95, and I-395 in Baltimore:

Repeated efforts have been and are being made to resolve the issues associated with [these segments] However, public opposition, connected to a great extent with environmental impact issues, continues to overshadow the basic need to provide for a high level of transportation service in these corridors.

He cited I-95 in the Washington area as an example:

Recent actions by the D.C. Council and the U.S. Department of Transportation to revise portions of the Interstate System within the District raise questions as to the utility of our plans to study further the proposed I-95 corridor in Prince Georges [sic] County.

Maryland, he said, was studying "what it believes to be a realistic approach toward providing alternate means of satisfying this inter- and intra-state travel demand in the event that these controversial sections are not constructed." Secretary Hughes said:

The State of Maryland will be prepared in July 1973 to demonstrate to the Federal Government that such a revised system can be advanced to the construction stage in 1975 in order that the State does not suffer a loss of Interstate funds and associated system mileage, resulting in an inability to avoid high levels of congestion and to provide for the needs of the motoring public Maryland proposes to develop a logical system of replacement Interstate facilities, consistent with present Federal Interstate funding commitments, for use in the event certain controversial segments of the program system are not constructed.

First priority would be to identify facilities that replace the function of the missing Interstate segment. Second priority would be "facilities that will provide alternate routings for Interstate movements" to relieve congestion on existing highways. Finally, the State would emphasize facilities that "satisfy Interstate movements that have not been provided for" at present.

The funding authorized for the controversial Interstate segments in the Baltimore and Washington areas would be sufficient to pay for these alternative routes. He asked Congress to allow the State to substitute new freeway routes for the portions that may be abandoned, with the substitution based on cost (about \$1 billion) rather than mileage as under current law.

Secretary Hughes told reporters that substitutes might include an expressway from Baltimore to Annapolis and upgrading of the John Hanson Highway (U.S. 50) between Washington and Annapolis to Interstate standards. He stressed this was not a plan, but simply an illustration of where Maryland might shift the mileage if Federal law permitted. [*1972 Highway Legislation, Hearings before the Subcommittee on Roads of the Committee on Public Works, House of Representatives, 92nd Session 2nd Session, Committee Print 92-32, pages 541-5553; Eisen, Jack,*

“Permission to Alter Road Plans Asked,” *The Washington Post and Times Herald*, March 22, 1972]

In April, State Highway Administrator Fisher confirmed that Maryland no longer planned to build its portion of the North-Central Freeway. He wrote to Delegate Donald R. Robertson, chair of the Montgomery County delegation to the General Assembly, to say the State was seeking authority to use the funds for another route, such as U.S. 50 to Annapolis or an outer beltway in Montgomery County. [“Freeway Plan Dropped by Md. Agency,” *The Washington Post and Times Herald*, April 9, 1972]

Decision on the Three Sisters Bridge

On March 2, the U.S. Court of Appeals issued a supplementary opinion addressing issues raised concerning the 1893 provisions of the District Code that plaintiffs had argued the District had not satisfied in advancing the Three Sisters Bridge. The Appeals Court found that these requirements did not apply to the Three Sisters Bridge:

The language of section 23, and its history and objective, persuade us that the overriding intention of Congress was also to exempt the project from the necessity of further compliance with these recommendatory and consultative provisions of the local code.

Clearly one of the objectives of Congress was to have the bridge project go forward promptly. The “notwithstanding . . . any law . . . to the contrary” language, construed in light of this objective, and of the history of the project, bears a construction that the provisions of the D.C. Code now considered should not delay or bar the authorities from proceeding.

The supplementary opinion also considered Title 16, United States Code, Section 470f, which required the Federal Agency to consider the impact of projects such as the Three Sisters Bridge on properties included in the National Register of Historic Places, and should afford the Advisory Council on Historic Preservation an opportunity to comment. The Secretary of Transportation is a member of the Advisory Council and may have already complied with this provision (“we understand he may already have done so”), but if not, he should do so.

This supplementary opinion had no bearing on the appeal to the Supreme Court.

On March 27, 1972, the Supreme Court rejected the appeal. Normally, such decisions are made without explanation, but in this case, Chief Justice Warren E. Burger released a concurring opinion:

I concur in the denial of certiorari in this case, but solely out of considerations of timing. Questions of great importance to the Washington area are presented by the petition, not the least of which is whether the Court of Appeals has, for a second time, unjustifiably frustrated the efforts of the Executive Branch to comply with the will of Congress as rather clearly expressed in Section 23 of the Federal-Aid Highway Act of 1968. If we were to grant the writ, however, it would be almost a year before we could render a decision in the case. It seems preferable, therefore, that we stay our hand. In these

circumstances, Congress may, of course, take any further legislative action it deems necessary to make unmistakably clear its intentions with respect to the project, even to the point of limiting or prohibiting judicial review of its directives in this respect.

In effect, Chief Justice Burger neither agreed nor disagreed with the U.S. Court of Appeals' findings, but believed a year's delay in completing Supreme Court review was inadvisable. Instead, the decision left the future of the bridge to Secretary Volpe, who must now ensure compliance with the requirements of the Appeals Court's decision of October 12, 1971.

Secretary Volpe did not have an immediate reaction. However, his spokesman indicated he had conferred with General Counsel Barnum and Administrator Turner.

Representative Broyhill called on the Committee on Public Works to write legislation that would force construction of the bridge. If the committee did not do so, he said, he would. Committee sources indicated that action was not likely and that if Representative Broyhill drafted a bill to initiate action, it would simply be referred back to the committee, which likely would ignore it:

A committee spokesman said the committee would not relish the prospect of holding hearings on a matter "committee members had considered settled."

Sources said the District's recalcitrance on provisions of the 1968 Highway Act, and its opposition to construction of freeways delineated in the act, had caused the committee – perhaps with a few exceptions – to view further legislation as futile.

A Senate Public Works Committee staff member said it was unlikely that that committee will pick up Burger's suggestion. "I see no further need for Congress to say that we really meant [what] we've already said twice before."

Sammie Abbott promised to continue fighting the bridge:

We pledge increased determination to meet the next moves of the pro-freeway forces by every means as we have in the past: Public education and mobilization, political and legal action.

Robert M. Kennan, Jr., transportation chairman of the Committee of 100, which was among the plaintiffs, said, "The way is cleared for a reappraisal of the bridge proposal on its merits." He added, "If it gets that, we are confident the project will be abandoned." [Kneece, Jack, "New 3 Sisters Action is Doubtful This Year," *The Evening Star*, March 28, 1972; Eisen, Jack, "3 Sisters Appeal Rejected," *The Washington Post and Times Herald*, March 28, 1972]

A *Post* editorial following the decision began:

Once again, for the umpteenth time in as many years, the Three Sisters Bridge – the bridge that people can't see because it isn't there, but feel no less powerfully about on that account – is back on page one, complicated as usual and unresolved as ever.

The fate of the bridge “involves politics, home rule, money, planning, conservation, freeways, the Metro rapid transit system, housing, assertions of congressional power, Presidents of the United States and, in this latest round, the Supreme Court.” However, the Supreme Court had neither killed the Three Sisters Bridge nor ordered work to resume. In fact, “the Supreme Court didn’t even want to hear the case.”

Instead, it left the Appeals Court ruling in place, and that ruling had returned the case to Judge Sirica with instructions on how to proceed. The editorial summarized the instructions:

1. District Court Judge John J. Sirica is told to clarify – and possibly reconsider – his finding in 1970 that proper hearings had been held six years earlier on the location of the bridge.
2. The District Court is also told to send the case to Secretary of Transportation John A. Volpe, who is to make several determinations dealing with such factors as the proposed usage of, and impact upon, parkland along the Potomac shore. Mr. Volpe is also instructed to make a documented record of these and other determinations, such as whether the bridge jibes with areawide transportation planning criteria.

Of course, Chief Justice Burger’s “highly unusual concurring opinion” practically invited congressional action that could force construction. That was now a possibility. First, the decision not to hear the case meant the Supreme Court left in place Judge Bazelon’s comments about pressure from Chairman Natcher. “Many congressmen read that as an insult to the legislative branch of the sort that demands retaliation.” Second, the Chief Justice had “managed to fan these flames” by raising the question of whether Judge Bazelon’s ruling had “unjustifiably frustrated the efforts of the Executive Branch to comply with the will of Congress.” The statement then observed that a Supreme Court ruling might be a year off and that in the meantime, Congress could act “to make unmistakably clear its intentions,” even limiting or prohibiting judicial review:

These comments – coming as they do from the Chief Justice of the United States – strike us as peculiar, to say the least. We had not thought it to be the function of the Chief Justice to advise Congress, and still less encourage it, to take particular actions; or to pay quite such close attention to a local dispute largely unrelated to national affairs; or to suggest answers to questions not before the court. Yet he seemed to do all three in pointing out that Congress could now pass still another law requiring the bridge to be built, and could couple it with a provision prohibiting judicial review of its action.

Despite this virtual invitation to legislative relief, perhaps “Congress may have had enough of the whole Three Sisters saga by now, and might be willing to let the matter undergo the same procedures as any other federal highway project.” Perhaps, in truth, what was needed was “a thorough, up-to-date review of this dog-eared plan as it applies to today’s transportation outlook here.” Instead of simply being another “excuse for frivolous delaying tactics,” such a review might “produce a fresh decision with which everyone involved in this ancient imbroglio could live in peace—or at least in something closer to tranquility.” [“Three Sisters: Back to the Drawing Boards,” *The Washington Post*, March 30, 1972]

The *Star* agreed that the Chief Justice had offered several options for resolution, including a legislative solution, an administrative response, “or everyone can forget the whole thing.” The administrative option for Secretary Volpe was not promising:

For no matter what kind of good-faith effort the Department of Transportation might now make to answer the maze of administrative and legal procedural questions raised by Judge Bazelon, our guess is that this inevitably would lead to further inconclusive litigation.

That, as the Chief Justice implied, left the legislative option as the most promising. By law, Congress could make its intentions unmistakably clear. True, Congress tried to do that in 1968 by directing construction to begin. Now, however, it had a new vehicle, namely the biennial Federal-aid highway bill that was to be enacted in 1972. “The merits of the bridge are clear” and President Nixon “is firmly on record” in support, and yet:

If it seems incredible that any dispute over a Potomac River bridge crossing should be occupying the very top echelons of the legislative, judicial and executive branches of the federal government, the fact is that such things happen occasionally in the Nation’s Capital, and have throughout its history. This one will linger on until Congress, with the President’s help, ends it. [“Justice Burger’s Prescription,” *The Evening Star*, March 29, 1972]

A New City Council Chairman

As early as December 1971, the White House had begun looking for a Republican to replace Chairman Hahn when his 3-year term ended on February 1. The *Star* reported:

Hahn, 49, a liberal Republican, has apparently disappointed the White House by successfully forging the council’s limited authority into a controversial weapon of a relatively independent and innovative legislative body.

The White House is reported to feel that Hahn’s bid for independence has sometimes been at the expense of Mayor Walter E. Washington and is a source of disharmony within the city government.

Under Chairman Hahn, the council had “provoked criticism from many quarters. Some elements of the city’s business community have accused Hahn of seeking publicity and issuing self-serving statements.” He had “in a sometimes flamboyant manner . . . turned what might have been a figurehead post into a full-time job.” He had been at odds with the mayor on a number of issues, including whether to provide a subsidy to D.C. Transit System to save the reduced fare for the elderly:

The subsidy, supported by Council Vice Chairman Sterling Tucker, was strongly opposed by Hahn, who argued it would strengthen the position of D.C. Transit’s controversial president, O. Roy Chalk, and delay the company’s acquisition by a public body.

Mayor Washington, after a week’s silence, finally endorsed the subsidy.

Then there was the Three Sisters Bridge:

A particularly sore point has been Hahn's opposition to building the Three Sisters Bridge, against President Nixon's specific endorsement of that project in order to guarantee the flow of subway construction funds from Congress. At one point, Hahn's public declaration against the bridge came during delicate private negotiations and nettled some of the participants. [Critchfield, Richard, "White House Seeks Successor to Hahn," *The Evening Star*, December 22, 1971]

From the start, former Councilman John A. Nevius was the frontrunner to replace Hahn. Since losing the race for the District's nonvoting Delegate to Congress, Nevius had served as Deputy.

On April 13, Assistant Press Secretary Gerald L. Warren announced the decision to appoint Nevius. The President, Warren said, appreciated Hahn's work, but "felt that this was the time for new leadership" of the city council. Warren also announced that the White House would renominate Councilman Sterling Tucker, whose term had expired on February 1 along with Hahn's term. Hahn and Tucker had continued serving in the interim. Like Hahn, Nevius was white, thus maintaining the racial balance on the city council.

The announcement came while Hahn was attending a birthday party for Mayor Washington, who was turning 57. By contrast with the White House's muted announcement of Hahn's ouster, President Nixon sent the mayor a laudatory telegram on his birthday:

I welcome this opportunity to publicly tell you of my deep admiration and very real respect for your years of dedicated leadership as mayor of the nation's capital. We all feel fortunate to have the benefit of your wisdom and experience.

According to the *Post*, White House staff had wanted to nominate Nevius in January, but had been overruled by Attorney General Mitchell:

Mitchell felt Hahn should be permitted to retain his post because of his campaign fund raising efforts on behalf of the Republican party.

However, sources said Nixon decided that he had to be replaced after some members of the House and Senate continued to complain bitterly about him.

The *Post* reported that:

Hahn's outspoken views, his frequently abrasive tactics, his alienation of some elements of the D.C. business community and his inability to get along with some key members of Congress were cited most frequently yesterday for his loss of the chairmanship

Privately, Council members said they felt Hahn's efforts to make the Council an independent body was the reason his ouster.

"He was forceful," said one. "They want us to quiet down and be a part-time Council."

Hahn's predecessor, John W. Hechinger, struck a similar note in speculating on Hahn's failure to win reappointment. "In his initial charge to us, President Johnson said to act as if we were elected. The varying power structures in Washington – they're not quite used to it."

Or, as the *Star* put it, "Hahn had managed to step on too many toes – particularly in the traditional Washington power base from which he came."

A News Analysis in the Post explained it in terms of balance between Mayor Washington and Chairman Hahn:

In many ways, President Nixon's ouster of Gilbert Hahn Jr. last week from the D.C. City Council chairmanship put the final touch on a four-year rapprochement between Mr. Nixon and Major Walter E. Washington and a four-year downhill relationship between the President and Hahn.

One of the chief reasons given by congressional and administration sources close to the shakeup was that Hahn was ousted because of his many disagreements with the mayor.

Before appointing Hahn, President Nixon had been impressed by the attorney's ideas on crime, court reform, and increasing the number of city judges and police officers. Since the appointment, however, "Mr. Nixon and other key Republicans have increasingly shown a preference for Mayor Washington's moderate, nonpartisan conduct to those of the more partisan, ebullient Hahn."

Representative Broyhill was one of the area Members of Congress who resented Hahn:

Broyhill not only opposed Hahn's moves for independence but more so his efforts to tax suburbanites

But when the mayor proposed his bold program of 1971, the reciprocal income tax on commuters, the White House kept silent, although the administration probably knew it would go nowhere.

That same year, when Hahn proposed an areawide payroll tax as a way out of the Metro subway system's financial difficulties, the White House publicly overrode Hahn and one of Hahn's best administration friends, Transportation Secretary John A. Volpe, by proposing an alternative.

His battle for a parking tax on workers who drive downtown to work had drawn criticism from Members of Congress from Maryland and Virginia. The tax was described as an environmental measure meant to reduce the number of commuters entering the city by encouraging them to switch to transit or carpools:

However, congressional sources said Hahn's adamant backing of the plan was not the reason for his expected loss of the Council chairmanship.

There has been growing disenchantment with Hahn on Capitol Hill. Especially irritating was the Council's refusal last year, at Hahn's insistence, to enact a 30-cent increase in the local property rate requested by Mayor Walter E. Washington and the President. Instead the Council raised the rate by 10 cents.

Even as rumors that Hahn was about to be replaced, Senators Mathias, Beall and Spong took to the Senate floor on April 12 to attack the plan for a parking tax. Representative Broyhill vowed to defeat the proposal. [Proposed Tax By District of Columbia Council on Automobiles Parked in Commercial Parking Lots, *Congressional Record-Senate*, April 12, 1972, pages 12338-12341]

Some members of the Senate Committee on the District of Columbia privately said they would not vote for Hahn's confirmation if he were renominated:

Some Republican members of the House and Senate also objected to Hahn's personality, complaining to White House officials that he did not know how to deal with them and that he had no sense of public relations. [Green, Stephen, and Scharfenberg, Kirk, "Nevius May Head Council," *The Washington Post and Times Herald*, April 13, 1972]

By contrast, as the *Star* reported in a profile of the nominee, Nevius was seen as a liberal Republican in the mold of Mayor John V. Lindsay of New York City (1966-1973). He was a "cool, rational politician who will never shoot from the hip on an issue and end up blasting off his toes." He was "more apt to be agonizingly slow at time as he deliberately analyzes the issues before drawing up his position."

When the appointment was announced, Nevius said he was "delighted to have a new opportunity to serve the city. I love the city." He would not comment on any issues or offer an opinion on Hahn's chairmanship. He thought he would leave HUD, but was unsure. It depended on whether his work as chairman of the city council would constitute a full-time job.

In an interview, a reporter asked about his balanced style of decisionmaking. Nevius said, "I see no reason to change that approach. My approach to things is to try to analyze them carefully and thoroughly . . . get a good grasp on the pros and cons . . . [which is] the best approach for coming up with the right answer."

This studied style had its critics. One unnamed supporter of Hahn thought Nevius would hurt the city in the long run. "Basically I think Jack's a pretty indecisive guy. He's nice. He's personable. But when push comes to shove, he'll fudge. He is willing to let an issue drift on in hopes of a consensus." The profile cited his stance on freeways while serving on the council as an example:

Once while on the City Council, Nevius side-stepped one of the most controversial issues in the city – whether or not to build new freeways – so well that most people even today do not know his real position on the matter.

Nevius managed this even though he was chairman of the council's committee which was asked to recommend a course of action on freeways – which were unwanted by District residents but favored by Congress.

Instead of one alternative, Nevius sent the council three – then sat back and watched as the remaining eight council members committed themselves to various sides.

When then Council Chairman John Hechinger found himself hard put for a solution, Nevius carefully helped draw up a resolution which put the issues in Mayor Washington's lap.

Then he turned around and voted against the resolution he helped to write. Even though the resolution passed 5 to 4, his position on freeways was still left unclear.

When asked about the parking tax, he did not have a position. "It's a new issue, and I have to do my homework first." [Scharfenberg, Kirk, "Nixon Picks Nevius to Head Council," *The Washington Post and Times Herald*, April 14, 1972; Prince, Richard E., "Nixon's Rapprochement With Mayor Led to Hahn's Ouster," News Analysis, *The Washington Post and Times Herald*, April 17, 1972; Sarro, Ronald, "One Damn Too Many" and Anders, Michael, "In The Lindsay Mold," Hahn and Nevius, *The Evening Star*, April 14, 1972]

In an editorial, the *Star* gave Chairman Hahn credit for taking "a more aggressive role for the still-embryonic D.C. City Council." He can take pride that "the council is not apt again to become as ill-defined and purposeless as it had been" when he took office. However, his "manner of doing business – his personal style – was something else." After summarizing his adversarial approach, the editorial defined his style:

If no one in the local government worked any harder, it is doubtful that anyone else could have rubbed as many people the wrong way in the course of three years.

A White House source had said that in considering a Hahn reappointment, the issue was not dedication. The question was: "how you do business with people to make government work."

In that respect, Nevius was "a good choice." His civic credentials and love of the city were unquestioned, even if his leadership qualities were untested. In his hopeless quest as the Republican candidate for Delegate in a predominately Democratic city, "he ran a good race, and gained a degree of community-wide respect that should be a strong plus in the new post."

The editors concluded that given the demands of the new job, "we trust that Nevius intends to make it, as did his predecessor, a full-time commitment." ["New Leadership," *The Evening Star*, April 15, 1972]

The *Post's* editors thought that President Nixon's decision not to reappoint Hahn "actually says more about this city's peculiar and undemocratic system of local government than it does about the merits of the two men involved." The people, as usual, were not part of the decision:

Many of us have read or heard explanations, of course, but the White House felt no compelling need to share its thinking of its decision with the colonial subjects affected. Instead, the administration left things up in the air for some two and half months after Mr. Hahn's term had officially expired – and then dumped him shabbily

At the very least, Mr. Nixon might have thanked Mr. Hahn personally and publicly, rather than leaving it up to deputy press secretary Gerald L. Warren to issue a perfunctory statement of appreciation and an empty explanation that it was “time for new leadership.”

The result of this crude handling of a changeover was not only to insult Mr. Hahn unnecessarily, but to cast Mr. Nevius wrongly in the role of Republican pet, content to do the bidding of Mayor Washington, the President and the Congress – and not to annoy any of the colony’s overlords.

The editors conceded that Hahn had “annoyed people in power – mainly because he sought to increase the power of the city council, with the idea that this might help get things done.” In doing so, he “became a thorn in the side of officialdom”:

The cold fact is that the White House and Congress hold the ultimate power over this city, and Mr. Hahn’s attempt to make the city council into something it cannot be under this system – an independent arm of a democratic local government – rested from the start on an unfortunately false premise. This ought not to mean, however, that a council chairman must always be a rubberstamp for the mayor’s policies, or the will of higher authorities. We trust that Mr. Nevius will continue to search for ways in which the council can act where other authorities do not – or will not, however formidable the limitation on its ability to function at all. [“The City Council Shakeup,” *The Washington Post and Times Herald*, April 18, 1972]

The confirmation hearing for Nevius and Tucker took place before the Senate District Committee on April 19. Only Chairman Eagleton was present. Nevius opened his brief statement by saying, “I guess you could say I’m back here because I feel there is so much more to be done.” Tucker recalled that at his confirmation hearing 3 years earlier he had promised to serve the people of the city with diligence, integrity, and determination to “achieve for them the highest possible quality of life.” If confirmed for a second term as vice chairman, he would be “guided by that resolve.

With both men before him, Chairman Eagleton raised questions for them to answer in turn, but the answers were brief with virtually no follow up. In essence, confirmation was not in doubt.

The day before, the city council had voted 5 to 2 on the first reading of the parking tax regulation, but had postponed the second reading until Nevius took office. Chairman Eagleton asked the two men for their views on the regulation. Nevius replied that every big city faced the same problem, namely “the flight of the tax base to the suburbs, beyond the city line, and in our case it is not just the city line, it is a constitutional line”:

The city . . . needs the money of the suburbanite who commutes but by the same token we don’t want to drive that suburbanite out beyond the Capital Beltway forever and his place of employment out there.

The question was one of “balancing these equities.” He had “not had a chance to really look” at the proposed regulation, but described the issue as a “dilemma” for the city. He was “not certain

where I'd come out." He understood that it was an environmental measure, but it also involved the revenue problem:

So I am inclined to think I would be opposed to it but there is one thing I am certain of and that is that if it doesn't have to go into effect until early 1973. There is no need to pass it in early 1972. [sic]

Tucker favored a parking tax, but did not support the current proposal. The key was to find a measure that was fair to the city and suburbs as they "deal with the problem of pollution as it is supposed to, with the problem of revenue being a secondary issue, as it should be"

As for freeways, they were discussed only briefly:

The Chairman. What is your position with respect to the building of the Three Sister's Bridge [sic]?

Mr. Nevius. I am opposed to it, Senator.

Mr. Tucker. And so am I.

Chairman Eagleton asked about public ownership of the bus system and subsidizing service. This question was, by then, a key issue Congress was facing on a national level as it developed highway legislation amidst calls from urban officials to use Highway Trust Fund revenue for rail transit and subsidies. Nevius said that with the possible exception of Houston, Washington was the largest metropolitan area in the country "still struggling along with a privately owned municipal transportation system." Experience nationwide "has demonstrated the overhead cost of operating such a system has gotten to the point in our economy where the fare box and the rider can no longer support public transportation and that there has to be taxpayer help as we've done in so many other areas." The time had come for the District of Columbia to do so as well.

Tucker replied that "private ownership of public transportation makes about as much sense today as private ownership for public schools would make." Transit was a necessity, and the fare can't keep going up. He would favor a subsidy for public ownership, but not now. He had "no confidence in the present ownership of the public transportation system." He thought the city should purchase D.C. Transit Systems "as quickly as possible."

Other questions concerned home rule, removal and disposition of solid waste, further use of Robert F. Kennedy Memorial Stadium with the departure of the second incarnation of the Washington Senators baseball team after the 1971 season (to become the Texas Rangers), the need for and placement of a convention center, and the need for an Office of Consumer Affairs. [Nominations for Chairman and Vice Chairman District of Columbia Council, Hearing before the Committee on the District of Columbia, United States Senate, 92d Congress, 2d Session, April 19, 1972]

The Senate District Committee approved Nevius and Tucker, 6 to 0, and sent the nominations to the Senate. On April 20, the Senate unanimously confirmed Nevius as chairman and Tucker as vice chairman. Chairman John A. Nevius took office on April 24.

(The push for a parking tax came to an end in June. The original proposal by Councilman Willard was for a \$1 a day tax on parking in downtown. The tax was lowered to 50 cents when it was given preliminary approval on the initial vote, but the required second vote had not taken place, primarily because Chairman Nevius was still studying the idea. Willard called for a showdown vote, but it was postponed indefinitely on June 12 when he accepted Nevius's request not to put the regulation on the agenda for the next session, scheduled for June 20, as the *Star* reported:

Council sources said Willard did not attempt to push the regulation to a vote after Nevius's request because of fears that the mayor – [facing] congressional opposition – would veto the measure if it passes. The sources said Willard apparently felt he did not have enough votes to override such a veto

Council sources said Nevius “obviously had had enough time” to study the measure and that his action was a stalling tactic. “He’s being less than candid” if he said he has not had enough time, other council sources said.

(Willard, by then, had announced he would leave the city council on June 30 to return to his job at the American Security and Trust Company. With his departure, the city council had lost the two strongest supporters of the parking tax – Hahn and Willard. Similar ideas for a commuter tax would be considered over the years, but never enacted. [Anders, Michael, “Parking Tax Showdown Put Off,” *The Evening Star*, June 12, 1972]

I-66 Takes Center Stage

Arlington County officials, ACT, and other private citizens who opposed construction of I-66 were not aware in early 1972 that EPA had sent a seven-page December 1971 report to State highway officials regarding I-66. The report, which became available only in late March, was highly critical of Virginia's environmental impact review of proposed I-66, which was limited to the Virginia side. The project “could have a significant adverse effect on the environment,” but Virginia had failed to propose alternatives to the highway project. “Location alternatives are given less than a full page of discussion and it appears that no real analysis was made in weighing and considering other corridor location alternatives to the proposed I-66 corridor.” The *Post* summarized possible alternatives:

EPA listed several possible alternatives to construction of the highway, including mass transit, exclusive traffic lanes for buses, more one-way lanes during rush hours, and discouraging automobile commuting by charging high tolls and raising D.C. parking fees.

The report also questioned the State's assumption that I-66 would smooth traffic flow on Arlington County's main thoroughfares:

Past experience with “commuter” freeways . . . has shown that any easing of local traffic congestion during peak hours is temporary at best. A road of this type generates its own traffic, which tempers any benefits to be derived from its construction.

At minimum, EPA said, “air, noise and water pollution impacts of each alternate route and mode of transportation” should be reviewed:

Such an expressway traversing the Washington metropolitan area will impact heavily on the human environment throughout its route. Information should be provided also on measures to protect air quality during the construction of the highway. The statement should discuss the effects of the proposed highway, during construction and use, on the ability of the region to meet current local and-or national ambient air quality standards.

The revised impact statement “should include an estimate of the noise levels at various distances from the highway and anticipated community response to those levels.” EPA dismissed the design changes proposed by landscape architect Simonds:

The EPA statement also attacked parts of a highway department plan to lessen noise pollution from I-66 by lining the road with trees and earthen dikes. “Use of landscape planting to curtail noise would not be adequate, since plantings possess none of the physical properties required of a good sound shield. Plantings are porous to air flow, vibrate easily, and lack density,” the EPA report said.

The EPA report said the earthen dikes on both sides of the highway, even if they cut down on noise, could increase air pollution. “It should be recognized that pollution levels tend to be increased by a channelized roadway,” the report said.

The plans for the trees and earthen dikes were drawn up by John Simonds, a Pittsburgh landscape architect, who received the \$275,00 contract to find ways to limit the highway’s impact.

Further, according to EPA, Virginia’s draft “fails to consider the effects of the proposed highway (including bridge) on surface waters, underground water, community water, supply distribution systems and sources, and community sewerage systems,” as well as “methods to control siltation of waterways during construction.”

Another deficiency, in EPA’s view, was that Virginia had not given any “consideration to the disposal of debris from construction and land clearing activities.” A disposal plan should “consider possible effects on [the] visual environment of the urban and park areas through which the highway will pass.”

Further, the review was “not broad enough to allow a complete assessment of [the] potential environmental impact” of the Three Sisters Bridge or its access roads on either side of the Potomac River. “The environmental statement should include an assessment of the potential effects of the entire length of I-266 in the metropolitan area, including the Three Sisters Bridge.” It should review “alternative routes for I-266 in the state of Virginia, as well as alternative routes for the continuation of I-266 in other parts of the metropolitan area.” The analysis should consider not building the bridge and its access roads and explore non-auto “modes of travel” as better ways to handle the transportation of people in the corridor.

Emilia Govan, learning of the EPA report, said the agency's comments on I-66 "are very much in line with what the citizens have been saying; in fact, they're probably stronger." [Barnes, Fred, "EPA Warns Virginia on Bridge," *The Evening Star*, April 2, 1972; Mathews, Jay, "Environmental Agency Scores Virginia on I-66," *The Washington Post and Times Herald*, April 5, 1972]

On April 5, a three-judge panel of the U.S. Fourth Circuit Court of Appeals in Richmond barred work on what it called "Arlington I-66." The unanimous ruling, written by Judge Braxton Craven with concurrences by Judges John D. Butzner and Joseph H. Young, ordered the State and FHWA to cease all work until they filed an EIS, reviewed the plan to pave portions of two parks, and held new hearings on the impact of the highway.

The court rejected the State's argument that an EIS was not needed because NEPA was enacted after the route had been approved:

Doubtless Congress did not intend that all projects ongoing at the effective date of the Act be subject to the requirements of Section 102 [of NEPA]. At some stage of progress, the costs of altering or abandoning the project could so definitely outweigh whatever benefits that might accrue therefrom that it might no longer be "possible" to change the project in accordance with Section 102. At some stage, federal action may be so "complete" that applying the Act could be considered a "retroactive" application not intended by the Congress. The congressional command that the Act be complied with "to the fullest extent possible" means, we believe, that an ongoing project was intended to be subject to Section 102 until it has reached that stage of completion, and that doubt about whether the critical stage has been reached must be resolved in favor of applicability.

We must stress as forcefully as possible that this language does not provide an escape hatch for footdragging agencies; it does not make NEPA's procedural requirements somehow "discretionary." Congress did not intend the Act to be such a paper tiger

We cannot, of course, define for all cases the point of completion beyond which Section 102(C) is no longer applicable. We are certain, however, that Arlington I-66 has not yet reached that point: P.S.&E. approval has not been given, construction contracts have not been awarded, and actual construction on the highway itself has not begun.

Virginia did not dispute that it had not complied with Section 4(f) of the Department of Transportation Act or the companion Section 138 of Title 23 in planning to use portions of Bon Air and Spout Run Parks for I-66 right-of-way. The provisions had been enacted after approval for I-66 use of the parks. However, as the Supreme Court had found in the Overton Park case, a project involves several approvals in the course of development, so the date of "approval" was not the criterion for applicability. In view of the Supreme Court's decision, the three-judge panel was "compelled" to conclude that Section 4(f) applied "to a project until it has reached that stage of progress where the costs of altering or abandoning the proposed route would certainly outweigh whatever benefits might accrue therefrom, and that doubts about whether this stage has been reached must be resolved in favor of applicability." Arlington I-66 had not reached that stage of completion.

The panel also rejected the State's argument that the Section 4(f) issue was moot because the State was complying with it voluntarily. Voluntary compliance "does not give appellants full relief." The panel explained:

In the first place . . . suspension of work on Arlington I-66 is necessary if the Secretary's determination under Sections 138 and 4(f) is to be meaningful; continuing investment in the project at its present state of development would render alternatives to use of the parks less feasible and prudent. In the second place, the Secretary's determination with respect to Spout Run Parkway will be meaningful only if made after it is known with reasonable assurance whether the proposed I-266 and Three Sisters Bridge project will be built and, if so, where the bridge will be located. Pursuant to an order of the Circuit Court of the District of Columbia, the Secretary is now in the process of reexamining the proposed location for the I-266 project Although the district court's finding that "(t)he Three Sisters Bridge is not a part of I-66 – neither is the connecting road, I-266" is not clearly erroneous, it failed to consider the relationship between the projects. If the

I-266 project is not built at all or if the location of the bridge is changed, it is apparent that avoiding Spout Run Parkway for the use of I-66 will be more feasible and prudent because present plans call for I-266 to connect with I-66 in this park.

In addition, the State must hold a public location hearing in accordance with Section 128 of Title 23, United States Code. The 1958 hearing did not satisfy the requirement as amended by the Federal-Aid Highway Act of 1968. The hearing should consider not only the impact of I-66 on the environment and the community's planning goals but the economic effects of the location in view of plans for Metro in the Rosslyn area. Plans for Metro in the I-66 right-of-way had not been anticipated at the time of the 1958 hearing:

From today's vantage point, the economic effects of Arlington I-66 might be significantly different than projected in 1958 – rapid rail service might better satisfy the needs of this area than would I-66. Moreover, Arlington I-66 has not yet reached the stage of completion where alteration or abandonment of the proposed route is impossible. We are certain that Congress intended that if there is a reasonable possibility that a mistake has been made in the planning of a project as expensive, disruptive, and permanent as a highway, and if that project can still be altered or abandoned, the project must be held in abeyance pending determination of whether a mistake has in fact been made.

Contrary to the District Court's ruling, the three-judge panel did not believe that the continuous monitoring of the area by agencies satisfied the public hearing requirement. "Study by experts is not the equivalent of a public hearing, and continuing evaluation of the economic effects of Arlington I-66 based only on such study is, therefore, not consideration within the meaning of the statute.

The ruling concluded:

VI. RELIEF

In summary, we hold that further acquisition of right-of-way and construction of Arlington I-66 must be enjoined until federal appellees have

- (1) filed and considered an environmental impact statement, in accordance with Section 102(C) of the National Environmental Policy Act, and,
- (2) ascertained that there is “no feasible and prudent alternative” to the use of Bon Air Park and Spout Run Parkway (the determination with respect to Spout Run Parkway to be made after the resolution of the Three Sisters bridge controversy) and that the project includes “all possible planning to minimize harm” to these parklands, in accordance with Section 138 of the Federal-Aid Highway Act and Section 4(f) of the Department of Transportation Act, and until state appellees have certified to the Secretary that a new public hearing has been held (or the opportunity for such hearing has been afforded)
 - (1) to obtain information about the social effects of the proposed location, its impact on the environment, and its consistency with the community’s urban planning goals, and
 - (2) to obtain information about the economic effects of the proposed location in light of the planned rapid transit service to Rosslyn.
and that the information obtained from this hearing and hearing upon the design of the Lee Highway portion of Arlington I-66 have been considered, in accordance with Section 128(a) as amended of the Federal-Aid Highway Act.

On remand the District court will enter an appropriate judgment granting injunctive relief and such other relief as may be necessary.

Reversed and remanded.

Donald S. Burris, who had argued with case with Lawrence Latto, said of the ruling that, “The whole thrust of the opinion recognizes the continued public interest and concern in making decisions on development.”

ACT’s James Govan said:

This is a perfect decision. We won on all counts. This is going to require a fresh look and I don’t see how they can continue to justify the decision [to build I-66]

The ruling was of particular concern to WMATA, which was planning to run a 6½-mile Metro line in the I-66 right-of-way. General Graham estimated that construction of the track would be delayed at least a year. If the State were unable to build I-66, WMATA could build its line, but at greater cost since it would have to acquire the right-of-way.

[*Arlington Coalition on Transportation et al., v. John A Volpe, Secretary of Transportation, et al.*, No, 71-2109, U.S. Court of Appeals, Fourth Circuit, 458 F.2d 1323, 3 ERC 1995, Env’tl. L. Rep. 20,162, April 4, 1972 (as modified May 9, 1972); Mathews, jay, “U.S. Court Bars Work on I-66,” *The Washington Post and Times Herald*, April 6, 1972; Mathews, Jay, “Road Ban to Delay Metro in Virginia,” *The Washington Post and Times Herald*, April 7, 1972]

On April 18, Virginia appealed the ruling and asked the full seven-judge Appeals Court to consider the case. The 15-page petition focused mainly on whether the three-judge panel was correct in applying NEPA and Section 4(f) to a project that had been approved before their enactment. In part, the petition said:

Congress did not intend in its understandable concern for future damage to the environment to give disgruntled landowners ammunition to endlessly delay sorely needed projects which had complied with the laws and regulations as they existed at the time of their planning. [Scannell, Nancy, "Rehear Road Case, Virginia Asks Court," *The Washington Post*, April 19, 1972]

Fred Barnes of *The Evening Star* interviewed James and Emilia Govan, co-chairs of ACT, after the ruling by the three-judge panel. The Govans had been following news about I-66 since moving to their home in Arlington, five blocks from the proposed route, in 1965. (They had moved in 1963 to the Washington area where Jim worked for the Agency for International Development.) First, they told Barnes, they noticed the design was an elevated freeway. "Everybody had thought I-66 was going to be built at ground level or as a depressed road," he said. Then in early 1970, surveyors identified 30 more homes to be demolished in the Maywood section. The Govans started contacting State, county, and Federal officials seeking information, but found it was "impossible" to get information or even to learn when a public hearing might be held.

In 1970, they attended a public hearing where they learned that I-66 would be 14 lanes wide. "It was at that hearing that the whole thing crystallized for us," James said. "There were 600 people there, and 550 of them were against the road." A few days later, they formed ACT:

We just got angry because we had been dealing with these people in Richmond and we got nothing but vague and insensitive responses, and all the while our officials in Arlington were sitting on their hands. We decided that if anyone was going to do anything about this, it would have to be citizens.

ACT hired Environmental Systems Lab, a California company, to evaluate the noise and air impacts of I-66, "but their efforts were to no avail.

They met with Governor Holton in February. Barnes explained:

The Govans and a handful of other citizens met with the governor for an hour, pleading with him to call a moratorium on I-66.

Holton refused; two days later the Virginia Highway Commission approved the final design for the freeway and the next day ACT and several individual citizens sued in U.S. District Court in Alexandria to block construction of I-66.

James told Barnes, "We really had high hopes for Gov. Holton."

Emilia added, "We tried every angle. We went to every agency. We exhausted all of our remedies before going to court."

Aside from agency obstruction, James said the most common obstacle the past 2 years was the “response of people that, ‘Gee, we agree with you about I-66, but its construction is just inevitable at this late date.’” [Barnes, Fred, “They Beat ‘City Hall’ on Interstate Rt. 66,” *The Evening Star*, April 10, 1972]

Representative Broyhill saw the Supreme Court decision on the Three Sisters Bridge and the Appeals Court decision on I-66 as raising the specter of further efforts by Chairman Natcher to withhold District funds for Metro. The Virginia Congressman asked President Nixon to convene “an immediate meeting” with Secretary Volpe, Interior Secretary Morton, and EPA Administrator William D. Ruckelshaus. The President should “bring an end to the ineptness and lack of cooperation their departments and agencies are displaying with regard to the construction of a balanced transportation system in the National Capital area mandated by Congress.” He feared that some Members of Congress who supported Metro “now feel the balanced transportation concept has been abandoned by the administration.”

The *Post* account of Representative Broyhill’s request reported, “It was learned last night” that Chairman Natcher “will again try to block the subway funds if the federal agencies do not move to build the bridge.” Unless President Nixon ensured action to comply with court requirements, “Natcher may be in a stronger position now” than in December 1971 when the House adopted the Giaimo Amendment.

Representative Broyhill blamed the court rulings on the departments and agencies involved in transportation, specifying “their interpretation of administrative laws and regulations promulgated by the departments and agencies” and their “ineptness, red-tape and sloppy administrative work.” The courts had not found that Congress could not order construction of the bridge or other freeways, but if the departments and agencies did not get moving, “We are going to end up with the biggest empty holes ever dug in any nation’s capital.” [Green, Stephen, “Metro Fund Freeze Seen by Broyhill,” *The Washington Post and Times Herald*, April 13, 1972]

The *Post*’s editors were having a change of heart. They pointed out that in 1958, when Virginia began planning I-66 between the circumferential and the Theodore Roosevelt Bridge, “the word ‘ecology’ was a highly specialized, scientific term.” Rail rapid transit and subways for the area were “widely considered an antiquated torture that made living in New York City unpleasant”; the idea of such a thing in Washington “was something of a pipe dream that was not taken seriously by a lot of people until the Metro compact was signed 10 years later, in 1968.”

Now, citizens, notably ACT, had raised questions based on “our new awareness of the ecology and the decision to build Metro”:

Raising these questions will not repeal the automobile, obviate the need to find creative solutions to the problem of traffic congestion or put the Virginia Highway Department out of business. But it does, in our view, justify the ruling of the Fourth Circuit Court of Appeals that further work on this freeway be stopped until these questions have been duly considered and answered.

Although VDH intended to appeal the decision, the editors hoped that, “pending the outcome of this appeal, it will also update its thinking about the basic purpose of its work”:

That purpose is not to build all the freeways that the law and the resources of the Highway Trust Fund will allow. It is, in the end, to make life easier and more attractive for all the people who live and work in the area under its jurisdiction. [“I-66: Fourteen Years Later,” *The Washington Post and Times Herald*, April 15, 1972]

James Govan attended a public hearing at Swanson Junior High School that WMATA had called to gather comments on the location of the East Falls Church Metro station and 2 miles of connecting tracks. In view of the recent court ruling, Govan criticized WMATA for not abandoning I-66 as the location for Metro through Arlington County. “Metro has apparently been avoiding this issue for a year now. I don’t think we can avoid this issue much longer.” He suggested that the year-long delay that General Graham had predicted could be avoided if Metro planned the rail line without the highway.

Metro officials had anticipated the issue and had a prepared statement ready. The statement indicated that “the most expedient course . . . is . . . to move ahead in a manner that will not preclude the highway and will in fact assure a minimum of community disruption with or without the proposed highway.” [Mathews, Jay, “Metro Aides Urged to Scrap Plan for I-66 in Arlington,” *The Washington Post and Times Herald*, April 26, 1972]

ACT led several hundred people on May 1 on a hike along part of the I-66 right-of-way. In a short speech after the hike, James Govan told the group that “his “ideal” proposal was to convert the right-of-way to a 10-mile long park. He tied the idea in with the suggestion of the American Revolution Bicentennial Administration that each State create a park for bicentennial activities in 1976. “There’s a new spirit today,” James said. “It’s the spirit of ’76, not I-66. It says that schools, home, gardens and parklands are much more valuable than concrete.” [Fahnestock, Sheridan, “Park,” Metro Wrapup, *The Evening Star*, May 1, 1972]

On May 4, 1972, Assistant Commissioner and Chief Engineer Harwood said that Virginia would begin construction of a 2-mile section of I-66 in Fairfax County, from the Capital Beltway to State Route 7, which he said was not specifically covered by the court ruling. He planned to hold an informational hearing regarding the plan for construction in Fairfax County. Construction would begin in November.

Assistant State Attorney General Stuart Dunn confirmed the interpretation that the 2-mile stretch was not affected by the court-imposed moratorium on construction in Arlington County. The State had purchased all the right-of-way for the Fairfax County section and as far as he knew, no one had ever proposed an alternate route for this segment.

Initial reaction was unfavorable, as the *Post* reported:

Audrey Moore, a member of the Fairfax County Board of Supervisors, said: “I can’t see any benefits to loading any more traffic onto Rte. 7 if you’re not going to continue the highway on through.”

Lawrence Latto, an attorney representing the highway opponents, suggested construction of the two-mile stretch could create pressure to build the entire road and limit the study of alternatives to the road Latto said the opponents have no plans as of now to go to court in an effort to stop work on the two-mile, \$20 million stretch. [Mathews, Jay, "Va. Plans 2 miles of I66 in Fall," *The Washington Post and Times Herald*, May 5, 1972]

On May 10, the full Appeals Court refused to hear Virginia's appeal on I-66, but did amend the three-judge panel's finding that work shall not proceed until the Three Sisters Bridge is finally located or abandoned:

Whether Three Sisters Bridge will be built and where it will be located are factors that cannot be ignored in deciding what to do about I-66 and I-266. But our judgment shall not be construed to prevent simultaneous consideration of all three inter-related projects and their probable impact on each other.

The recent court decisions prompted Highway Commissioner Fugate to say he wanted to get "a few things off my chest about I-66" during a speech to the Virginia Chamber of Commerce in Arlington. Delaying construction of I-66 would create "chaotic congestion and . . . an unnecessary toll in tragedies resulting from traffic accidents." Environmental groups blocking the project were forcing delays "to the detriment of the overwhelming majority" of northern Virginia residents:

In my judgment, many of the worthwhile environmental gains of recent years and the aspirations of many serious conservationists and preservationists are being jeopardized by those whose principal interest is to delay, denounce, and delude, who appear bent on obstruction for the sake of obstruction alone.

He added:

Antihighway sentiment, antiautomobile sentiment is a new phenomenon in urban areas. It's almost an hysteria. People shoot from the hip, they don't care why.

As for critics of I-66, he continued:

I am quite certain that those who oppose the construction of Route 66 do not speak for the majority of citizens in Northern Virginia. Motorists now using [U.S.] Route 29-211 between the Beltway and the Potomac River make the trip at peak periods in an average of 29 minutes. They could travel between the same points on Route 66 in 16 minutes. And I believe time is pretty important to most commuters.

Fugate said that, "Elimination of the present stop-and-go driving for motorists who would use

I-66 instead of existing roads" would save about \$4.3 million a year in vehicle operating costs. He added that according to a mail survey that Representative Broyhill had conducted, 69 percent of 32,291 residents of Arlington, Fairfax, and Loudoun Counties favored the highway. Only 19 percent were opposed and the rest were undecided.

He rejected EPA's view that freeways such as I-66 create more traffic problems than they alleviate. I-66 would not only improve local traffic problems by shifting commuters to the Interstate, but "could be expected to save four lives and prevent 100 injuries and approximately 300 traffic accidents each year."

As for impacts, steps had been taken in the 1950s to minimize environmental damage. "The location follows an abandoned railroad corridor, and even in 1959, it was clear that its use would minimize the environment impact of the highway because for years . . . it had been a transportation corridor, serving a largely industrial area":

Altogether, 94 percent of the dwellings and almost 99 percent of all business properties needed for the right of way have been acquired (and) nearly 76 percent of the residents and more than 84 percent of the businesses have relocated – all at a cost of more than \$28 million in public funds. [Mathews, Jay, "Road Official Attacks Foes of Rte. 66," *The Washington Post and Times Herald*, May 11, 1972; Barnes, Fred, "Fugate Blasts Foes of I-66 in Arlington," *The Evening Star*, May 11, 1972]

The *Star* editorial team liked Fugate's alliterative description of those who "delay, denounce and delude." No doubt the "'anti-freeway freaks' would respond in kind," and accuse the roadbuilders of wanting to "despoil, depopulate and denude" northern Virginia. This "war of words" would probably escalate, but Fugate, the *Star* said, "has the edge. When words fail him, he can always send in the bulldozers." ["Roadbuilder's Rhetoric," *The Evening Star*, May 13, 1972]

Virginia officials met with FHWA Administrator Turner on May 15 to discuss traffic problems in Northern Virginia. Representative Scott, who was running for the Senate, called the meeting in his office. Fugate attended, along with Dr. Charles Clapp, Special Assistant to the President, Domestic Council Staff, representing President Nixon. Under Secretary of Transportation Beggs attended as well.

After the meeting, Representative Scott told reporters that with I-66 and the Three Sisters Bridge blocked, officials had to consider all possible alternatives to relieve the area's "transportation crisis." The officials considered options such as widening U.S. 50, building service roads along U.S. 50 to reduce local traffic on the main roadway, providing commuter rail service using existing railroad lines, widening the George Washington Memorial Parkway entirely on parkway right-of-way, widening U.S. 29-211, and providing more buses. These alternatives would serve as stopgaps until the State could build I-66.

Representative Scott strongly endorsed Metro's plan to construct its line in the I-66 median:

There's no way to have a subway in Fairfax County unless we also have 66 because the median strip will be used for the subway We need both the highway and Metro. Can you imagine what a howl we would have if property in Arlington and Fairfax Counties were taken without the highway going along with it!

As a result of the hour and a half meeting, Representative Scott said, Federal and State highway officials agreed to give top priority to the issue. [Quady, Roy, “‘Top Priority’ Promised to Area Traffic Crisis,” *Northern Virginia Sun* (Arlington), May 16, 1972]

On May 16, Virginia announced it would appeal the Appeals Court ruling on I-66 to the Supreme Court. Given the inevitable delay in a response from the Supreme Court and, if the request were granted, a subsequent decision, the State was beginning plans for the hearings the Appeals Court had required. In addition, the State planned to hire a consultant to conduct an exhaustive review of I-66’s social, economic, and environmental impacts. “He will consider alternate locations, and whether there is any need for I-66 at all,” Fugate’s spokesman told reporters.

As the *Post* pointed out, the Supreme Court’s decision on whether to consider the appeal could not be predicted. One thing that was known was that “the road would pass within a mile of the home of Chief Justice Warren E. Burger, who lives at 3111 N. Rochester St., Arlington.” Justice Harry Blackmun lived in “an Arlington high-rise building at 1701 N. Kent St., adjacent to a now little used section of I-66 that would link the road with the Theodore Roosevelt Bridge.” [Mathews, Jay, “Virginia to Appeal I-66 Rule,” *The Washington Post and Times Herald*, May 17, 1972]

The same day as the announcement of the appeal, Virginia highway officials conducted a survey of motorists to determine how traffic would be affected if a 2-mile segment of I-66 were built inside the Capital Beltway to State Route 7. The survey was intended to respond to concerns the Fairfax County Board of Supervisors had expressed about the impact of I-66 traffic on Route 7.

The State had positioned 27 highway department interviewers and two State troopers at the I-66 exit to the beltway:

Under the original plans for the survey, five questions – covering the motorist’s original destination and opinion of the proposed I-66 extension – were to be asked one of every 10 motorists. Each interview was to take about 30 seconds. The complete survey was to run for 12 hours, beginning at 6 a.m.

By 7:30 a.m., the interviews had resulted in traffic being backed up 6 miles in the eastbound lanes of I-66, cars overheating and running out of gas, and motorists cursing and jeering at the troopers directing traffic. The State suspended the interviews at 8:45. Interviews resumed at 11 a.m.:

But at noon, motorists were still complaining as they moved slowly through a narrow lane marked with orange barricade devices. At 3:15 p.m., mostly out of raw frustration, the highway department called off the survey.

“We just goofed with this survey,” Fugate told reporters. “I apologize to the motorists for our lack of planning and good judgment. And I sure hope it won’t happen again.” The department’s resident engineer, Donald Keith, put it this way;

When we were planning this survey, we didn’t know some people would hold up traffic for five minutes while they cursed out the state troopers. We had no idea some motorists

would stop and insist on being interviewed. And I guess we just didn't foresee the problems that would be caused by the crush of 50,000 cars."

Fugate acknowledged that he had requested the survey, but in his own defense, added, "I didn't tell the people how to go about getting the information." He suggested that the wrong technique had been used. [Whitaker, Joseph D., "I-66 'Survey' Causes Huge Traffic Jam," *The Washington Post and Times Herald*, May 17, 1972]

In an editorial, the *Star* took exception to the survey. "Whatever doubts may have lingered in anyone's mind about the Virginia Highway Department's view of itself and the taxpaying motorists it theoretically serves had to be shattered beyond recall" by the survey. The editors understood the "ostensible reason" for this peak period survey. However, instead of conducting the survey by the "placing of little wires across the road – a device the department uses everywhere else," Virginia highway officials decided on "a preposterous rush-hour traffic count." The decision appeared to be "the kind of irresponsible tantrum that only a virtually autonomous agency could conceive of," an attempt to "show its bureaucratic muscle to the motoring public":

These highways, the department was saying, belong to us, and if you peasants get uppity over our plans for you, we'll just put a chain across. Today I-66, tomorrow the Shirley Highway.

This father-knows-best attitude might be more acceptable if it came from anyone but those wonderful folks who brought you the Pentagon Mixing Bowl, now being corrected at enormous cost. Or from the drawing boards of the engineers who stuck an overpass pillar in the middle of the express bus lane of I-95 not long ago.

Things being as they are, maybe it's time someone told the department officials that Virginia's road network is not the Rhine River, and they are civil servants, not robber barons. ["The Robber Barons of I-66," *The Evening Star*, May 24, 1972]

Fugate took exception to the editorial, as discussed in a long letter to the editor the *Star* published on June 7. He again apologized for the inconvenience and unintentional disruptions motorists experienced, but said the study was "an effort to obtain essential traffic information." The editorial was "erroneous and misleading" in implying that the study "resulted from some sinister desire to harrass [sic] citizens."

The "overwhelming majority of citizens" wanted the State to proceed with construction of I-66 when court issues were resolved and funding became available. The Commonwealth of Virginia planned to appeal the Circuit Court's ruling based on requirements that "did not exist during more than a decade of planning and highway right-of-way acquisition for I-66, and although

\$30 million in public funds has been spent, all fully in accordance with state and federal regulations existing at the time."

The "principal purpose" of the traffic survey was to determine the validity of concerns that construction of the 2-mile stretch of I-66 in Fairfax County would create traffic jams on State Route 7. In the State's view:

Such an extension, aside from providing safer, more convenient and more direct access for these motorists, would relieve the heavily congested Beltway of traffic destined for Route 7.

The documentation the survey was to provide would help “resolve this difference of opinion by determining the number of motorists who would or would not use such an extension if it were built.”

As for those “little wires across the road” the editorial had suggested, they were used only to count vehicles; “one cannot expect the wires to learn the destinations of motorists.” The State had distributed cards to motorists to determine their origin and destination, but few were returned and many were thrown out the windows to litter the roadside.

Fugate also responded to the reference to the Pentagon highway network:

The Pentagon mixing bowl, for which your editorial incorrectly credited us, was designed and constructed by the federal government in the mid-1940s. Our files do not indicate that The Star considered it a monstrosity at the time. Six years ago, Virginia assumed responsibility for its maintenance and improvement.

That overpass pillar in the express bus lane “was not a product of faulty roadway design, as you allege.” The pillar was needed at the time to keep the Shirley Highway express lane in operation during reconstruction.

VDH officials “are fully aware that they are civil servants, responsible for providing the highest attainable levels of public service.” The demands on them in a rapidly growing urban area were “enormous,” but Fugate said “an examination of all the facts, not of some facts and some fiction, will indicate that these employees perform exceedingly well indeed.” [“The Robber Barons of I-66, Letters to the Editor, *The Evening Star*, June 7, 1972]

District Appropriations Act, FY 1973

On March 29, 1972, Director Airis appeared before Chairman Inouye’s subcommittee on appropriations for the District of Columbia. Before introducing his formal statement, he summarized his agency’s request:

For 1973, the total operating expense request is \$18,096,500, which represents an increase of \$1.231 million. The major item included in this increase is \$303,200 and

21 positions for operation and maintenance of the Center Leg Tunnel.

The Center Leg Tunnel, sir; as you know, a section of I-95, lies right in front of the Capitol. That is scheduled to be placed in operation for the public late this year or in January of next year. The 21 positions are for the operation of this tunnel, the 9th Street Expressway Tunnel which was opened for use last Christmastime, and for the tunnel section of the Southeast Freeway which runs under Barney Circle. Other major increases

are \$100,000 for energy and maintenance for street lights, and \$122,000 for replacement construction equipment.

Airis's statement indicated that of the District's original Interstate mileage of 29.5 miles, 10.8 miles were completed and in use:

These include, within the District, the Theodore Roosevelt Bridge and a section of the Potomac River Freeway (I-66) including the connecting E Street Expressway; the 14th Street Bridges (I-95) which now includes the center bridge completed and opened to use by express buses on April 5th of last year; the Southwest Freeway (I-95) including the northbound 12th Street Expressway and the southbound 9th Street Expressway which was opened on December 20th; the Southeast Freeway (I-695) to the completed 11th Street Bridges over the Anacostia River; and the Anacostia Freeway (I-295). All of these facilities are heavily used.

Construction was underway on another 1.8 miles of the Interstate System:

These include the Center Leg Freeway (I-95 between D Street, S.W. and New York Avenue). Completion of the portion to Massachusetts Avenue is now targeted for early in 1973. A construction contract to bridge K Street over the Center Leg will be awarded shortly. A portion of the East Leg (I-295) is under construction between Interchange "C" and Barney Circle at Pennsylvania Avenue. It is also scheduled to open for traffic early in 1973.

Technically, the Three Sisters Bridge segment of I-266 was under construction, but work had been halted by court order. Airis said the District had satisfied Judge Sirica's court order, but the U.S. Court of Appeals had added requirements. (When the statement was written, the appeal to the Supreme Court was pending. The Supreme Court had rejected the appeal 2 days earlier.)

Airis's statement went through the remaining segments:

The Potomac River Freeway (I-266) along the Georgetown Waterfront is technically in the design stage. A special study commenced on January 26, 1972, to prepare a sectional development plan for the Georgetown Waterfront, which plan is to address the socio-economic and environmental impact aspects of the freeway concurrent with recommending guidelines for future land developments. The study, sponsored by the Secretary of Transportation, is a cooperative effort between the District of Columbia Government, the Department of the Interior and the Department of Housing and Urban Development. It is being administered through the National Capital Planning Commission and includes significant citizen participation.

The East Leg of the Inner Loop to Bladensburg Road is also in the design stage – work is underway to prepare for a design public hearing which is requisite to commencing construction.

The remaining segments were in preliminary status, with the South Leg of the Inner Loop scheduled for a design public hearing early in May. In 1971, the District had conducted additional studies in accordance with the Federal-Aid Highway Act of 1970 on the North Leg of the Inner Loop (I-66), the North-Central/Northeast connections (I-70S and I-95) and the upper end of the East Leg of the Inner Loop. The consultant report by DeLeuw, Cather Associates and Harry Weese and Associates had helped the District of Columbia and Secretary Volpe submit their required reports to Congress at the end of the year.

In response to a question about whether the Potomac River Freeway was in a predesign stage rather than in design, Airis submitted a statement:

The Department of Highways and Traffic commenced design of the Potomac River Freeway on September 9, 1969, after receiving requisite approval from the Federal Highway Administration.

The design which was initiated is that described in the Conference Report for the 1968 Federal-Aid Highway Act. Recent court actions have imposed the requirement to study further environmental impacts and to conduct additional public hearings on other metropolitan area freeway segments, notably the Three Sisters Bridge portion of I-266. The effect of the court rulings is to delay all design and construction activity on those projects.

The Sectional Development Plan Study mentioned in my opening statement is designed to provide the socio-economic and environmental impact evaluations of all alternative plans now under consideration by the community and government agencies. This data is to be used at a public hearing as required by Federal regulation for compliance with Title 23. Subsequent to the hearing, approval of a selected design will allow recommencement of the detailed design activity. [District of Columbia Appropriations for Fiscal Year 1973, Hearings before a Subcommittee of the Committee on Appropriations, United States Senate, 92nd Congress, 2nd Session, Part 1, S-181-15, pages 871-881, 890]

When Airis again appeared before the Senate committee on April 7, Chairman Inouye asked about the District's request for \$2.345 million for the Potomac River Freeway. "Would you advise this committee what the relationship is between this freeway and the Three Sisters Bridge, if any?"

Airis explained:

The Potomac River Freeway ties into the inner-loop at K Street and about Twenty Sixth Street. Part of the Potomac River Freeway as built goes on down past Howard Johnsons, the Watergate, and on down to E Street Expressway, and also to the Theodore Roosevelt Bridge, the Lincoln Memorial area. That section is completed and in use.

Airis cited his previous statement about the section along the Georgetown Waterfront, then continued:

Now, going on upriver, at a point near the junction of Foxhall Road, and Canal Road, there is the Three Sisters connection as presently planned. Beyond that, on the District of Columbia-Maryland side, there is what is known in planning as the Palisades Parkway, two lanes in each direction. That ties in to the already partially completed George Washington Parkway on the District of Columbia-Maryland side.

Then farther upriver it connects into I-495. That, of course, is in heavy use.

All of these arteries are in partial use at the present time. When and if the Potomac River Freeway is built, it will probably have both of these connections. If it does not have the Three Sisters Bridge connection, then for sure it will have a heavy duty connection on up on the District of Columbia-Maryland side of the river.

Chairman Inouye also asked about the cost per month, \$15,000, of retaining the contract for construction of the Three Sisters Bridge or \$1.2 million. "Now, how long do you estimate we would have to pay this contractor to watch this equipment at \$15,000 a month?"

Airis responded that he had recommended canceling the contract 7 or 8 months ago, but retaining the contract was "a calculated risk." Canceling would save \$15,000 a month, but if the court permitted construction to resume, a new contract would have to be awarded, almost certainly at a higher price than the original contract. "As you well know, construction has been going on up at the rate of 5 to 10 percent a year, and we would face that increase." He had renewed the request to terminate the contract as recently as a few weeks earlier, but the District could not make that decision without concurrence of the Department of Transportation.

Before closing his testimony, Airis wanted to make one additional comment:

Mr. Chairman, I just would like to point out the need for these facilities remains the same and that in the District of Columbia, traffic volumes went up about 3½ percent last year. [District of Columbia Appropriations for Fiscal Year 1973, Hearings before a Subcommittee of the Committee on Appropriations, United States Senate, 92nd Congress, 2nd Session, Part 2, S-181-16, pages 1348-1349]

Mayor Washington appeared before the House District Appropriations Subcommittee on

April 12. (Chairman Natcher still refused to address him as major, instead using "Mr. Washington" as reflecting the fact that technically he was a commissioner.) Chairman Natcher restated his support for a balanced transportation system:

In order to meet the tremendous day-by-day growth of traffic, the freeway system must be carried out, along with the present rapid rail transit system that is now under construction. The Highway Acts of 1968 and 1970 are the law and must be complied with. Both systems must proceed together.

He entered President Nixon's statements on the subject into the record:

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.

He wanted to know what the city was doing in view of the Supreme Court's refusal to hear the Three Sisters Bridge case. He also wanted to know what the Justice Department was doing "in regard to defending the suit" and what the Department of Transportation "is doing in complying with the Highway Acts of 1968 and 1970." He added:

I want to know what is happening and whether or not the requirements set forth by Judge Bazelon are being met and, just when we can see some action taking place on this suit.

In response, Mayor Washington submitted a letter to Chairman Natcher on May 2. After recalling the history of litigation on the Three Sisters Bridge, Mayor Washington said the Justice Department, Transportation Department, and the city's corporation counsel had examined Judge Bazelon's opinion and had agreed on the steps to be taken. First, they had to decide whether a new location hearing for the bridge was needed. Judge Sirica had agreed with the District that the location "deviated so slightly from that which was discussed at a public hearing, that a new location hearing was unnecessary." Judge Bazelon "remanded this aspect of the case to the District Court 'for clarification of the factual basis for its conclusion'" because Judge Sirica's opinion had not revealed "a factual basis" for the conclusion that the location was so similar to the location presented at the public hearing as to eliminate the need for a fresh hearing.

Despite "the abundance of evidence which was before the Court of Appeals on this point and the prior record in the case," all parties agreed a new location hearing should be held:

Such a location public hearing can be combined with the location public hearing on the Potomac River Freeway to be held this fall. Plans for the Potomac River Freeway have now progressed to such an extent as to make this possible. Unless a major change in location is found necessary, it is anticipated that the District will be ready for a design public hearing on the Potomac River Freeway a short time thereafter.

In the interim, the environmental statement (under the National Environmental Policy Act of 1969) required by the Court of Appeals decision will be completed and plans for the ramps and approaches to the Bridge will be ready for public comment. This will respond to the Court of Appeals' suggestion that affirmative findings by the Department of Transportation under 23 U.S.C. §134 (pertaining to a comprehensive planning process) and 23 U.S.C. §138 (pertaining to the use of parklands) should be based, to the extent possible, on final plans for the Bridge. The Department of Transportation will be in a position by that time to make these assessments. The information that the Department will have as to noise, air, and water pollution in making its determination under Section 138, should be sufficient to meet the objections of the Court of Appeals to the findings made under 23 U.S.C. §109 (pertaining to safety).

The tests on a model of the Three Sisters Bridge “clearly establish that the proposed Bridge satisfies the safety requirements of 23 U.S.C. §109.” With these steps completed, the Department of Transportation would be able to grant location and design approvals.

As for the four projects listed in the Federal-Aid Highway Act of 1968, he provided a status report that restated the status that Airis had provided to the Senate subcommittee. Mayor Washington concluded his letter:

The District Government and the two Federal departments [Transportation and Justice] have each reaffirmed earlier commitments to comply fully with the Federal-Aid Highway Acts of 1968 and 1970 and are taking the indicated next steps. [District of Columbia Appropriations for 1973, Hearings before a Subcommittee of the Committee on Appropriations, House of Representatives, 92nd Congress, 2nd Session, Part 1, H-181-39, pages 14-20]

Chairman Natcher welcomed Airis before the District Appropriations Subcommittee on April 27. Airis’s formal statement went through the status of the city’s Interstate network, with an updated status on the Three Sisters Bridge:

Since the U.S. Supreme Court has refused to hear the case, construction will likely remain halted until the U.S. Department of Transportation can satisfy the requirements imposed by the courts or until Congress passes additional legislation as suggested by Chief Justice Burger of the U.S. Supreme Court in his recent decision. The recent action of the U.S. Court of Appeals in Richmond halting further progress on I-66 in Virginia places this project in a similar status – the court order even ties it to the status of the Three Sisters Bridge.

In response, Chairman Natcher reiterated his longstanding support for a balanced transportation system involving simultaneous development of a freeway system and rail rapid transit. His subcommittee, he said, had never designated a single freeway or placed the Three Sisters Bridge or any other Interstate segment in a bill. In addition, the Committee on Public Works had not selected these routes. The District had approved all these segments.

“It was this subcommittee, and I think you will agree with this, Mr. Airis, that started the rapid rail transit system.” If the subcommittee had opposed rapid rail transit, “we could have very easily stopped rapid rail transit several years ago.”

He acknowledged he was not an engineer, but:

I would wager anything within reason that instead of \$2½ billion or \$2,980,200,000, which is now the estimated cost for the rapid rail transit system as presented to the committee, this system will end up costing between \$4 and \$5 billion. I again say to you that I am not an engineer but I am just as positive of that as I am that I am sitting in this committee room at this time.

He thought the subcommittee had always “shown good faith on it.”

He asked if Airis had changed his mind about the need for a balanced transportation system in the District. Airis had not, saying that “modern cities must be able to sustain themselves with modern types of transportation.” Each mode has to perform the job it does best:

It is unfortunate that there has been so much feeling and emotion to the point that people are looking at the subway system as a panacea, and I do not believe it is proper to do that. It will be a fine assist in moving commuters, and I am sure it will move a lot of them. But over the years the city has expanded in 360 degrees, in every direction, and it is very difficult to serve all of them without the other adjuncts of the balanced transportation system.

I am talking here merely about the commuter. In addition, of course, to the home-to-work and work-to-home movements, there are all the other movements. If people will think about it, they would realize that after the rail or subway system is built, you won't even handle “one crate of oranges on it.” All those things that are necessary for our urban civilization will be moved over the highways by some type of rubber tire traffic or by rail with rubber tire traffic from distribution points as we did in the old days. No; we have not changed our viewpoint. We have tried to keep up to date on what is happening in other cities and not only in this Nation but elsewhere in the world. I do not think anyone of us have seen anything that changes the central philosophy of a modern balanced transportation system for urban areas.

As for the freeway network, the elements have been subject to change and debate, but “I would like to go ahead and build that system. I think the area needs it and we should go ahead and do it.” [District of Columbia Appropriations for 1973, Hearings before a Subcommittee of the Committee on Appropriations, House of Representatives, 92nd Congress, 2nd Session, Part 2, H-181-40, pages 306-312]

On May 31, 1972, the Committee on Appropriations submitted its report to the House on the District of Columbia Appropriation Bill, 1973. Regarding WMATA, Chairman Natcher did not attempt to block funding:

The Committee recommends the \$33,498,000 requested for the District's share of construction of the rapid rail transit system in 1973. Included in the amount is the actual share of \$32,738,000, \$260,000 for the construction of the Rhode Island Avenue pedestrian bridge, and an additional \$500,000 for the cost of modifying the north access to the Gallery Place Station. [District of Columbia Appropriation Bill, 1973, Committee on Appropriations, U.S. House of Representatives, 92d Congress, 2d Session, H. Report No. 92-1106, page 30]

When Chairman Natcher presented the committee bill to the House on June 6, he again explained his support for a balanced transportation system, inserted the President's letter and statement in the record, and included Mayor Washington's letter on compliance with the Federal-Aid Highway Acts of 1968 and 1970. He did not, however, elaborate on compliance as he had in recent years. [District of Columbia Appropriations, 1973, *Congressional Record-House*, June 6, 1972, pages 19830-19834]

Representative Gross asked about the Three Sisters Bridge. He had searched “in vain” for any sign of activity at the bridge site:

It was the position, I thought, of the Congress that in providing funds for the boondoggling subway[,] objection would be removed to the bridge construction. The gentleman [Giaino] played an active part in getting Federal assistance for the subway. I would like to ask him what has happened to the bridge that is supposed to be under construction, and what about finishing the other freeways that are only partially constructed and on which work has stopped? Drive out of this city toward Baltimore, and you are dumped off a segment of freeway that goes nowhere. Can the gentleman explain why?

Representative Giaino said he strongly supported the Three Sisters Bridge, but the U.S. Court of Appeals had blocked construction. All parties involved were trying to comply with the decision, but “until they go that route they are enjoined by the decision of the circuit court of appeals from proceeding with the bridge.”

Representative Gross asked, “what happened to the quid pro quo that was implicit in the deal whereby Congress released subway funds.”

Representative Giaino said he was hesitant to ask this question of Representative Gross, but “what quid pro quo” was he referring to. “I am not aware of any quid pro quo.”

Mr. Gross. Every dollar you have in this bill for the subway system.

Mr. Giaino. It has nothing to do with the bridge and the highway system. Each stands on its own.

Time expired for the discussion, and Representatives Gross and Giaino never clarified the quid pro quo question. [District of Columbia Appropriations, 1973, *Congressional Record-House*, June 6, 1972, page 19836]

However, Representative Myers, a member of the Committee on Appropriations, also wanted to discuss the contrast between Metro and the Three Sisters Bridge. He understood that construction was tied up in the courts, but he wanted to address a few points. Litigants claimed that the Three Sisters Bridge “was an environmental hazard to our community.” It was going to “deny certain access to the river” and “was going to be less than desirable as far as aesthetics [sic] are concerned.” Some opponents even “made such statements that they will be making a platform of concrete clear along the river; all of the Potomac will be covered by concrete.”

At the same time, WMATA was planning bridges in the vicinity of the 14th Street bridge, tunnels under the river, and another bridge across the Anacostia River:

But how many people have you heard raising objections to the building of these two Metro bridges? It is rather strange that objections are only brought up when we are going

to build a highway bridge, and yet the Metro system will be building two more bridges across these beautiful rivers, and yet no objection is raised to them.

As for all the families that would be displaced by freeway construction, “have you heard any objection about the many families that will be displaced by the construction of the Metro system?” According to Metro, 744 families would have to be relocated. “Yet has there been any big hue and cry about that? I have not heard the first word of protest by the media.”

Representative Myers also took exception to some aspects of the court rulings, such as the concern about the taking of much needed, valuable parkland. “I actually wonder how much parkland is going to be taken for the building of a couple of bridge piers, possibly a few hundred square feet.” Meanwhile, almost “\$11 million in value of parkland is being taken by the Metro system.” This parkland included the line “running north alongside of this beautiful area in front of the Arlington Cemetery.” He added:

That system over there will be running above ground through this beautiful parkland. Where are the environmentalists who came in here and cried so much about the highways being built across the Potomac? And we are told that through this beautiful parkland they are going to run a railroad. Then consider the fact that in the future there is always the possibility that the Metro system might be a failure, but once you get a railroad right of way you can store boxcars up there along this beautiful parkland. Where are these environmentalists when this is being done? We have not heard the first word of objection.

He recognized the need for Metro, but he thought it was “very clear that they are not using the same standards for the construction of the Metro system that are being required today for the construction of a highway system as part of the balanced transportation system that this Congress has authorized be built.”

His time expired but Representative Davis, who likely was enjoying Representative Myers’ tirade, granted an additional 5 minutes.

Representative Myers wanted to point out “a few things concerning the Metro system that have gone unnoticed.” The system, he said, was going to use a lot energy, at least “90 million kilowatt hours requiring 35,000 tons of coal.” He asked where that coal was going to come from:

It will require more than 500 coal cars per month to operate just the Metro system alone. This city and this area are being threatened when we need an additional 35,000 tons of coal to run the Metro system alone, plus all the other electricity we require.

Where, he asked, were the environmentalists when this topic was raised:

Where are they today? How much information concerning this has been given to the Congress? This electrical energy that is going to be required to run the Metro system alone is enough electricity to supply the States of Alaska or Wyoming, yet this electricity is going to be required just to run the Metro system here in the District of Columbia.

The District had “some very real problems, this is very true, but sometimes we are unable to secure the true facts.” He added, “I think it is high time that this body, this city, and the Nation know how our tax dollars are being spent, and there are a number of cases of double standards.” [page 19387]

During debate on June 7, Maryland’s Representative Long inserted a statement expressing his well-known concerns about Metro. He opposed the \$33.5 million in the District appropriations bill and construction of the Metro subway. He stated his five reasons. First, based on the estimated cost of \$3 billion, the same amount could be used to buy a new home “for every one of the 150,000 families in the average congressional district.” Counting the other 13 metropolitan areas planning subways, “the costs are going to run between \$50 and \$75 billion.”

His second reason was the “probable lack of use” of Metro. “People do not want to use mass transit.” Crime was one reason. “If in New York City 3,200 police ride shotgun on the subways to keep law and order, imagine what it is going to be like in Washington, where we have a higher crime rate per capita than they do in New York City.” However, the real reason people “are loathe to take subways is that they just do not find it convenient to use mass transportation.”

Third, Metro would be used mainly by people of high income, but people of ordinary means would pay for it:

The beneficiaries will be most Federal employees already enjoying higher salaries and fringe benefits than the taxpayers back home What they have in mind, I think, is to let the poor people use the subway and keep their cars at home so that the well-heeled can get through the streets faster with their own automobiles.

Fourth, why spend up to \$5 billion on new rapid rail facilities in Washington “when these already exist.” He was referring to existing railroad right-of-way throughout the areas:

Why does the District of Columbia not undertake this quick, cheap, minimally disruptive program? Probably because it does not cost enough, there is no profit for the engineers, the designers, the contractors, the equipment manufacturers, and the investment bankers.

Finally, he did not think mass transit was the answer to congestion in Washington or other large cities. “The answer is to stop locating so many Government agencies in Washington and to decentralize our Government back home – in your district and mine.” [District of Columbia Appropriations, 1973, *Congressional Record-House*, June 7, 1972, pages 19907-19908]

That same day, the House approved the bill 302 to 67.

On June 12, the Senate Committee on Appropriations issued its report on the District of Columbia Appropriation Bill, 1973. The Senate bill, like the House bill, appropriated \$33,498,000 for the District’s matching share for subway construction.

Without explanation, the bill did not appropriate funds for several freeways:

- North Leg, west section, inner loop

- North Leg, central section, inner loop
- East Leg, inner loop freeway
- 9th St. expressway
- Interchange “C,” inner loop
- Center Leg, inner loop freeway
- Central Potomac River Bridge crossing (Three Sisters Bridge)
- Northeast, North-Central Freeway
- South Leg, inner loop
- North leg, east section, inner loop

The one exception was \$2,345,000 appropriated for the Potomac River Freeway, the same amount as in the House bill.

The committee’s report did include one reference to a freeway issue:

Three Sisters Bridge

The committee notes with frustration that funds continue to be utilized to maintain the existing contract for the construction of the Three Sisters Bridge. This burden has hampered the District for the past two years at a cost of \$15,000 a month. Only 10% of that amount is paid out of the City’s funds, the remainder being from the Department of Transportation, but the fact remains that good money is being spent to maintain a contract that will have to be substantially renegotiated before construction is continued. In addition, there is no real indication when construction will be allowed to resume by the courts. If the relocation hearings tentatively scheduled [sic] for this fall do not satisfy the courts, there may be indefinite delays and a continuing drain on the City’s resources. To scrutinize the budget as we have tried to do and to have this sort of uncontrolled waste, makes our efforts seem futile. The committee hopes that the District officials will do all that is in their power to see to it that either the construction is resumed as soon as possible or the contract is terminated to be renegotiated when the project is finally approved by the courts. District of Columbia Appropriation Bill, 1973, Report to Accompany H.R. 15259, Committee on Appropriations, United States Senate, 92d Congress, 2d Session, Report 92-844, June 12, 1972, pages 11-12]

The Senate debated and approved the bill on June 14, 1972, by a vote of 78 to 0. During the debate, the issues surrounding the freeways and Metro were not discussed. [District of Columbia Appropriations, 1973, *Congressional Record-Senate*, June 14, 1972, pages 20839-20848]

The House-Senate conference to resolve differences between the two bills completed work on June 27. The bill included WMATA’s matching funds of \$33.4 million.

When the conference report came before the House on June 30, Chairman Natcher pointed out:

The other body in marking up their bill approved the same amount that we approved for our rapid transit system of \$33,498,000. For some reason or other the highway

construction projects were deleted on the other side and, Mr. Speaker, everyone [sic] of those projects is back in this bill.

He continued:

Mr. Speaker, as you well know, the Highway Acts of 1968 and 1970 provide for the construction of the Three Sisters Bridge and the freeway program. These two laws will be carried out, Mr. Speaker, and as we have stated from the very beginning, we intend to complete our rapid transit system. The District of Columbia budget subcommittee appropriated the funds that started the rapid rail transit system and our action placed the Metropolitan Washington Area Transit Authority in a position to begin construction of this part of our transportation here in our Nation's Capital.

The House approved the conference report without a recorded vote.

President Nixon approved the District of Columbia Appropriations Act, 1973, on July 10, 1972 (P.L. 92-344).

A Landmark Event For The Nation's Capital

As Congress agreed without delay or controversy to appropriate the District's matching funds for Metro construction, WMATA was continuing its work. With construction underway, WMATA was finding that its path would not be smooth.

As Representative Long had mentioned during his anti-Metro statement, WMATA was planning for a fifth span to carry Metro in the 14th Street Bridge complex. It was to be located in the complex of spans between the Penn Central Railroad bridge and the Rochambeau Bridge, which carried Virginia traffic into the city.

On March 2, NCPC refused to endorse the crossing. Instead, it called for detailed estimates for a tunnel crossing and an explanation why the Penn Central Railroad bridge could not be widened to accommodate Metro. Jack Eisen explained:

The proposal for a fifth bridge within view of the Jefferson Memorial was made by Metro officials in 1967, but got little attention largely because of widespread doubt the Metro ever would be built.

Originally, Metro officials expected to build the transit span downstream from the Penn Central crossing. However, the committee was told on Tuesday that engineers encountered problems of routing tracks around the National Park Service regional office on the Washington side of the Potomac and the Marriott Twin Bridges Hotel on the Arlington side.

The Metro line will run from 7th Street in downtown Washington via L'Enfant Plaza to the Pentagon station where trains will continue on a line to and beyond Alexandria The L'Enfant Plaza line will run in an underwater tube beneath the Washington channel

surfacing in East Potomac Park to cross the bridge, then will go into a subway on the Virginia shore to pass beneath Shirley Highway Interstate Rte. 95).

Two NCPC members, architect Paul Thiry and administrator C. C. Johnson, Jr., of the American Public Health Association, “voiced concern yesterday over the prospect of a fifth bridge that, they said, would clutter the area” – even though the bridge had been on Metro maps since 1968. The *Post’s* Around Town column dismissed their concern about clutter:

So it would – roughly in the manner in which another bale would clutter a messy haystack. To make that additional slender bridge as invisible as possible amidst the profusion of freeway bridges, Metro’s planners would now place it between the Rochambeau Bridge and the Penn Central railroad bridge

So, let’s stop fussing and get along. If the Planning Commission wants to improve the aesthetics of the 14th Street clump of bridges, it might ask Penn Central to simplify its bridge by taking those ugly trusses off. [Eisen, Jack, “Planners Balk Metro Bridge Proposal,” *The Washington Post and Times Herald*, March 3, 1972; “A Fifth Bridge,” Around Town, *The Washington Post and Times Herald*, March 6, 1972]

At the end of the month, the WMATA board received a surprise from Edward Waddell of the construction staff. Construction of the line along G Street, NW., was 10 months behind schedule and would cost an extra \$1.4 million to \$4 million. Work on the Metro Center station was 303 days behind schedule. Waddell explained that the problem was that some merchants in the 1100 block of G Street had resisted alterations to their store front. Eisen explained the problem:

As Metro staff officials described it, the main problem on G Street is that the street is narrow and the underground Metro Center station arch must occupy its full width.

To permit the sinking of pilings, store display windows and signs that protruded into so-called “public space” above the sidewalks had to be removed and reconstructed flush to the building fronts. Also, the Machlen National Bank building at 11th and G Streets had to be underpinned.

Jackson Graham, Metro general manager, said District of Columbia government policy permitted some merchants to delay long enough to hold up subway work.

The exact cost of the delays would have to be determined through negotiations with the prime contractor, Peter Kiewit Sons Company.

Cleatus E. Barnett, Montgomery County’s member on the board, said, “I am shocked . . . and the figures are pretty shocking, too.”

When Chairman Fisher suggested that staff should have informed the board sooner, Construction Director William Alldredge admitted that “looking back,” Fisher probably was right.

Three board members from Maryland prepared a memorandum denouncing the District for letting four of the 36 businesses in the vicinity of 1100 block of G Street to “determine when and

under what conditions they would remove their building protrusions” over the public sidewalk. “That policy brought Metro months of delay and millions of dollars in extra costs.” They urged all local jurisdictions to prevent similar situations.

The board would soon learn that the line between Dupont Circle and Rock Creek Park would cost \$3-\$5 million more than expected. The problem was poor rock conditions that had not been anticipated when the project was bid. The rock was laced with fractures and veins that preliminary borings had not detected. Engineers preparing the PS&E for the contract had expected that only 10 percent of the three-quarter-mile tunnel would require steel bracing arches and a fast-drying concrete coating sprayed from hoses. Instead, the contractor found that 90 percent of the section would require bracing.

The WMATA board voted to pay the contractor, S. A. Healy Company, for the additional costs.

[Eisen, Jack, “Metro Is 10 Months Behind Schedule,” *The Washington Post and Times Herald*, March 31, 1972; Eisen, Jack, “Bracing Forces Up Metro Tunnel Cost,” *The Washington Post and Times Herald*, April 14, 1972]

On April 10, Secretary Volpe announced a \$3.1-million grant to COG for the first major mass transit study since the 1959 Mass Transportation Study. He called the study “the most unified planning for transit improvements ever conducted in the Washington area.” Eisen reported:

The study is intended to bring improved bus routes and schedules, the erection of bus shelters and stations, the addition of more bus-priority traffic lanes leading into Washington and possible operating subsidies to hold down fares and prevent threatened service cutbacks.

Volpe said the program will integrate “all transit planning studies and projects” by 12 public agencies in the city and its Maryland and Virginia suburbs “into one unified, comprehensive transit development program.”

The study also, Secretary Volpe said, would carry out President Nixon’s “directive for coordination of local programs and for development of a balanced transportation system in the Nation’s Capital.”

The grant consisted of \$3 million for primarily short-range actions and improvements that would be consistent with the long-range plans and objectives, the planning of which would be undertaken with the remainder of the grant, \$133,300. The total grant would cover two-thirds of COG’s costs for the study, with local funds and staff services providing the remaining one-third.

UMTA Administrator Villarreal said the total was the largest technical study grant in the history of UMTA’s technical study grant program:

With this grant, we are again demonstrating the commitment of the Department of Transportation to improving mass transit in the Nation’s Capital. We feel that this immediate action program will help the Washington area qualify for two-thirds Federal

capital grant assistance for needed transit improvements, within the first months of the program.

He was referring to the fact that at the time, Washington qualified only for 50-percent Federal transit funding because the area lacked a regional transit development program of the sort that would be developed under the grant.

With Metro scheduled to open service in stages between 1974 and 1979, the 33-month “study will consider bus service through suburban corridors that will not have Metro routes and other corridors that will have Metro service only in the later” stages of construction:

The decision by Volpe to finance a single program followed a series of meetings last year by a COG-sponsored committee. It reported itself unable to reconcile the sometimes competing efforts of the 12 agencies, including Metro and COG itself. [Eisen, Jack, “Transit Study Slated,” *The Washington Post and Times Herald*, April 11, 1972]

At the same meeting where the board agreed to additional pay for a contractor that had encountered unstable rock conditions, the board heard a staff recommendation in support of construction of a Metro bridge in the 14th Street bridge complex. General Graham had told the board that the tunnel suggested by NCPC would cost \$20 million to \$60 million more than the bridge, an additional cost that could not be justified.

On April 20, the board voted unanimously to build the bridge. In doing so, it ignored NCPC’s concerns. As Eisen put it, “Although the commission’s role in the bridge issue is advisory, federal law requires that its advice be sought and given.” Any agency rejecting NCPC’s advice was required to explain the decision in writing.

NCPC Executive Director Conrad charged, “They are actually end-running the planning commission and short-circuiting its comprehensive planning procedures.” He added, “We assumed that no further action would be taken [by WMATA] until the planning commission meets [on May 4]. This is not saying the commission would not have gone along” with the bridge plan. [Eisen, Jack, “Metro Board Approves Bridge, Snubs Planners,” *The Washington Post and Times Herald*, April 21, 1972]

Meanwhile, construction work on Metro came to a halt after truck drivers in Local 639 of the Teamsters Union walked out of negotiations on May 12 for work on Metro and other projects in the area. Work on Metro continued initially, but contractors could not get material trucked in or debris removed from their sites after the drivers went on strike. With most Metro construction in the downtown area, sites did not have space to store the excavated material for any length of time. By May 20, General Graham told reporters, “Our jobs are largely shut down. Our contractors are going to have at least 2,500 of their 3,200 workmen off the job Monday [on May 22].”

Work on Metro was at a virtual standstill for 3 weeks until the drivers approved a new contract and began returning to work on June 8. Resumption of construction would not be overnight, because the first order of business was to remove accumulations of dirt and debris that had been

left on site when the strike began. In addition, contractors who had laid off their workers would have to reassemble crews before resuming work.

Cement truck drivers who had walked out on May 15 were still on strike. The strike “has had the effect of dashing hopes of opening the first 4.6-mile section of Metro in downtown Washington on schedule on July 4, 1974,” as Fred Barnes wrote in the *Star*. A WMATA spokesman said, “We’re not out of the woods yet by a long shot.” [Eisen, Jack, “Metro Asks Exemption in Driver Strike,” *The Washington Post and Times Herald*, May 19, 1972; Eisen, “Most Work on Metro Shut Down,” *The Washington Post and Times Herald*, May 21, 1972; Barnes, Fred, “Some Subway Work Resuming,” *The Evening Star*, June 8, 1972]

Cement truck drivers settled on June 22, but hundreds of laborers worked off the project on July 3 shutting all major Metro construction except on two tunnels where the contractors or subcontractors had entered into interim agreements with the Laborers District Council of Washington and Vicinity.

On July 10, unionized laborers ended their strike that had begun shortly after the truck drivers settled their disputes. The laborers were seeking protection for their jobs in jurisdictional disputes with other unions, as Eisen explained. “Recently, most such disputes have been with the carpenters, over such things as who should install beams required in Metro construction.” The laborers also were seeking a 5½ percent annual increase over the present \$5.77-per-hour pay, but Eisen described that as “not being a major issue”:

Told of the back-to-work order, Jackson Graham, general manager of the Washington Metropolitan Area Transit Authority, exclaimed, “That’s great!”

“I took a tour of our largely idle construction sites today,” Graham said. “The water pumps have been kept busy, but that’s about all.”

Dating to May 12 when the truckers walked off the job, Metro lost about 2 months in labor disputes. “Graham said it would take perhaps three more weeks to estimate the final effect of the strikes on the scheduled start of subway service.” Contractors returning to work would have extended time to complete their contracts, but not increased payments. Whether later contracts would cost more because of inflation during the delay remained to be seen. [Eisen, Jack, “Construction Walkout In D.C. Area Is Ended,” *The Washington Post and Times Herald*, July 10, 1972]

At the same time, Congress was moving forward on the bill to provide a Federal guarantee for WMATA bonds. On June 20, the House Committee on the District of Columbia released its report on the National Capital Transportation Act of 1972. Debate in the House on June 26 was largely supportive. Representative Gross expressed concerns about the likely cost increases in the cost of Metro and that “Uncle Sucker” would ultimately be responsible for repaying the \$1.2 billion in bonds, leaving the District residents to take a “free ride.”

Representative O’Konski agreed with Representative Gross that the final cost of Metro would far exceed current estimates:

[Here] we are again with a broken record. I have heard it time and time again in the years I have been a member of this House. This is all it is going to cost. This is all it is going to cost. This is all it is going to cost. How many times have we heard this refrain? What we are actually engaged in is a deception. We are again deceiving the taxpayers of our Nation. Time and time again we have engaged in gross deception. But this Metro system is the grossest deception of all time.

Nevertheless, the bill passed by a vote of 280 to 75. Chairmen Mahon and Natcher were among those who voted against District matching funds for Metro in December but who voted for the bond guarantee. Neither commented during the flood discussion.

With support likely in the Metro-friendly Senate, Representative Gude said after the vote, "We're over the hump. Taken together, that vote [in December] and this one were crucial." [National Capital Transportation Act of 1972, *Congressional Record-House*, June 26, 1972, pages 22389-22407; [Eisen, Jack, "Hill Votes Guarantee Of Metro," *The Washington Post and Times Herald*, June 27, 1972]

The *Post* and *Star* editors shared Representative Gude's optimism. A *Post* editorial began:

We don't mean to get ahead of events or lull anybody into a false sense of security but it actually begins to look as if one of Greater Washington's longest running, always-on-the-brink crises is over: There is honest-to-goodness light at the end of the Metro tunnel, thanks to a grand vote in the House this week. With nary a word about the Three Sisters Bridge and by a lopsided 280-to-75 vote, the House approved the granting of a federal guarantee for bonds to complete the entire 98-mile Metro system that has been so long in the making.

Although action by a supportive Senate was still needed, the House was "where for years the fate of this delicate regional subway project had been unfairly entangled in a web of congressional pique and power." Even Chairman Natcher had joined the majority, "having lost a big round last December that could have killed the project if more responsible members had not prevailed." This success "was due to vigorous, responsible efforts by sympathetic members of the House – and to strong and effective support from President Nixon." ["Metro Makes It," *The Washington Post and Times Herald*, June 29, 1972]

The *Star* thought that saying the House vote "was a landmark event for the Nation's Capital understates the fact." The vote "virtually assures the orderly completion of this region's ultra-modern 98-mile subway system by providing the financial underpinning it must have to avoid costly delays":

One of the most gratifying votes, furthermore, was that of Representative Natcher, who previously had delayed subway appropriations in attempts to break Washington's freeway logjam. The highway controversy had no legitimate involvement with this legislation, and rightly was held apart to be resolved on its own merits, at a later date. ["Green Light for Metro," *The Evening Star*, June 29, 1972]

The Senate Committee on District of Columbia released its report on June 28. The committee adopted the House bill without change, meaning Senate approval would end congressional consideration of the bond bill. The Senate passed the bill with minimal discussion and without a recorded vote on June 29. [National Capital Transportation Act,” *Congressional Record-Senate*, June 29, 1972, pages 23309-23310]

On July 13, President Nixon signed the National Capital Transportation Act of 1972 (P.L. 92-349) “with special pleasure.” Metro, he said in a statement on July 14, “moves a long step toward successful completion with this new law”:

Late last year, when it appeared the METRO might die altogether because of a complex legislative and judicial tangle, I appealed to the Congress for responsible action to cut the Gordian knot. The metropolitan Washington community was enormously heartened when such action was forthcoming

But as METRO construction now moves forward at a quickening pace with solid Congressional support, there is reason to hope that the lessons learned en route to completion of the world’s most modern subway for our National Capital area may also mark the beginning of a new and more effective Federal-local partnership in District of Columbia government. This Administration is committed, and I am committed personally, to furthering that result by every means available to us.

The legislation had several components. Of course, it guaranteed the Metro revenue bonds. It also authorized an increase of nearly 25 percent in the District of Columbia’s contribution to Metro (to \$269.7 million, up from \$216.5 million). In addition, it broadened the Metro compact relating to labor, permitted WMATA to operate Metro directly or under contract, and called for local jurisdictions to make up the difference between the normal fare and reduced fares for any class of riders (such as students or seniors) within their borders.

On August 10, 1972, Secretary Volpe, Mayor Washington, and WMATA Chairman Fisher signed documents assuring payments for Metro construction:

- Secretary Volpe and Chairman Fisher signed an agreement by the Federal Government to guarantee \$1.2 billion in Metro construction bonds to be repaid from fare collection.
- Mayor Washington signed an amendment to the interstate compact, previously signed by Governor Mandel and Governor Holton following State legislative action, permitting public operation of a unified rail and bus transit system if Congress passed legislation allowing a takeover.

The agreements allowed WMATA to proceed with the sale of \$225 million in bonds in September. The sale, as Jack Eisen observed, freed “Metro from future dependence upon congressional appropriations that repeatedly have been delayed.” Chairman Fisher reflected this change in status by saying, “I’m almost tempted to say it’s downhill. It’s not that. It’s over the hump.” [Eisen, Jack, “Documents Signed Assuring Payment For Metro System,” *The Washington Post and Times Herald*, August 11, 1972]

Across the Lincoln Memorial

On June 18, the *Star* reported that Minority Leader Ford, “acting on orders from President Nixon . . . is working quietly to obtain legislation which would order construction of the Three Sisters Bridge without judicial interference.” A Ford spokesman confirmed the Minority Leaders’ actions, and said that he was only following Chief Justice Burger’s suggestion.

Representative Broyhill was pleased by Ford’s efforts. “This is where it should be done. Keeping it in limbo like it has been is unfair to opponents and proponents.” He said it was “like waiting for the other shoe to drop.” He added that, “Construction of the bridge will help resolve the I-66 controversy.” [Kneece, Jack, “Rep. Ford Pushing 3 Sisters Bridge,” *The Evening Star*, June 18, 1972]

The *Post* visited the site of the Three Sisters Bridge in early April and found that peace had settled in:

Birds flock to the sycamore trees at Three Sisters as before, traffic hums in the distance and the Potomac laps gently against the rusted pilings. Jets using Washington National Airport mar this peace, as does Sebastian, a toothy German shepherd whose bite is even worse than his bark. Let a visitor approach the Three Sisters Bridge construction site, a small compound of shacks and equipment just north of Georgetown, and Sebastian begins a fearful snarling and rattling of chains.

He and his fellow watchdog, Rex, mean business. As the only permanent residents of this acre or so of Washington, they take their responsibilities seriously.

Since work was halted by court order, the city had paid approximately \$275,000 to keep the two dogs, a construction superintendent, and two guards on duty. The city also had paid \$1.2 million to the contractor, who had completed only 90 days of the estimated 400 work days before the project came to a halt in August 1970.

The construction superintendent, Carlton Hudson of Head Construction Company, said “We work for the court. If they say work tomorrow, we start work tomorrow.” He and Frank den Outer of the District highway department worked out of a trailer on the site, keeping busy with maintenance of small boats, a tug, and a crane anchored by the shore. In addition, Hudson kept the lights working on a pier frame standing 20 feet out of the water—the only visible part of the project. [Levy, Claudia, “Peace Reigns Over Three Sisters Site,” *The Washington Post and Times Herald*, April 11, 1972]

On April 7, 1972, Airis had told the Senate District Appropriations Subcommittee that the contract for building the piers for the Three Sisters Bridge should be “discontinued” in view of the Supreme Court’s decision not to hear the case. The city’s inaction prompted Chairman Inouye to send a “sharply worded” letter dated August 2 to Mayor Washington about the funds wasted by paying the contractor mostly for not working on the bridge. Senator Inouye pointed out that if construction work resumed, the contract would have to be renegotiated anyway, thus minimizing the value of retaining the contractor on site.

The letter reinforced Airis's views, which had been strengthened when Hurricane Agnes (June 14, 1972 – June 23, 1972), one of the worst in East Coast history, dumped 10-14 inches of rain on the area. The hurricane flooded the Potomac River, Rock Creek, and part of the National Zoo, and damaged the bridge site as Eisen described:

When the bridge work was halted, the contractor, Head Construction Co., built the steel framework for a cofferdam to protect the pier excavation near the Washington end of the bridge from Potomac River water. However, no outer skin was attached to the framework, and the two-pier excavations have largely been filled with rock and silt, Airis said.

During the flood that accompanied tropical storm Agnes in June, the framework was snagged by driftwood and swept downstream where it is lodged near the 14th Street Bridge

"I concluded that there was not much reason to continue the contractor on the site," Airis said. "I hasten to add that it [the cancellation] will have no effect on the construction of the bridge" if the decision is made to resume work.

On August 4, shortly after receiving Chairman Inouye's letter, city officials agreed to cancel the contract. [Eisen, Jack, "3 Sisters Contract Canceled," *The Washington Post and Times Herald*, August 5, 1972]

While canceling the contract for its controversial bridge project, the city revived plans for building the six-lane I-695/South Leg Freeway, one of the projects the Federal-Aid Highway Act of 1968 had ordered the city to build. As in the past, the plan called for two tunnels connected by a half-mile-long depressed roadway an average of 30 feet below ground. One tunnel would run on the Potomac River side of the Lincoln Memorial while the other would cross under the northern tip of the Tidal Basin. The depressed section would be crossed by a grassed overpass that would provide pedestrian access between the Reflecting Pool in front of the Lincoln Memorial and West Potomac Park.

The city argued that the plan would neutralize criticism from national conservation groups and local anti-freeway activists because it would increase park land by 1.7 acres by replacing existing surface-level roads, particularly the section of Independence Avenue parallel to the I-695 alignment. Jack Eisen summarized the benefits cited in the city's prospectus:

In its prospectus, the highway department claims the road is needed to serve traffic between Northwest Washington and the growing, congested Southwest employment area.

Trying to channel all the traffic through the surface road network would cause more congestion and harm in the park areas than building the freeway, the department asserts.

The city scheduled a public hearing on the project to begin on September 6, saying it would "be on the proposed corridor for the freeway and its design, but not on whether the project should be built." [Eisen, Jack, "D.C. Revived Proposal on Potomac Park Road," *The Washington Post and Times Herald*, August 9, 1972]

Post architecture critic Von Eckardt did not wait for the public hearing to denounce this “slash across the monumental heart of the nation’s capital.” The issue at the heart of the debate was not how to cope with traffic “for in time we will surely develop techniques for reconciling the convenience of private transportation with the dictates of public health and amenity”:

The issue raised by this South Leg Freeway, more than by any other highway built or proposed in this city, is simply whether or not we want to preserve and perhaps enhance the beauty and dignity of the national capital we have inherited. Despite assertions to the contrary, this freeway . . . seriously threatens that beauty and dignity at its very heart – the Mall, its parks and its great monuments, which more than 15 million people come to see every year.

What people will see, if this freeway is built, are tunnel entrances, gaping caverns, more than 100 foot wide [sic], some 200 yards on either side of the Lincoln memorial, replacing marvelous old trees. The tunnel entrances will exude noise and fumes. At night, the harsh light needed to make the tunnel safe, will surely detract from the glory of the illuminated memorial. Another pair of such holes will spoil the serenity of the Tidal Basin and its cherry trees. True, you won’t see the depressed road itself and there is to be a grassed overpass so visitors can, on that one point, cross from the Mall to Potomac Park where the Franklin D. Roosevelt Memorial is to be built, and to the river.

Visitors may not see the road, but “most likely” they will “see its protective bannisters, flood wall and, most likely, high fences to keep vandals from throwing rocks at the cars.”

The city’s “prospectus and its rather Pollyanna Environment [sic] Impact Statement” referred to the freeway as a “strategic” link between I-66 and I-95/Southwest Freeway and that it would separate commuter traffic (“mainly Virginians who work in the new offices in the Southwest”) from tourists who visit the Mall by car.” It also claimed “the road would actually enhance the park by removing the growing number of automobiles.”

Von Eckardt questioned the name:

Despite the freeway’s name, the statements [sic] no longer refer to the Inner Loop, the vital northern segment of which has aroused so much opposition, that it is no longer publicly mentioned.

But does a “south leg” make sense without the rest of the loop?

He did not want to debate traffic estimates (“loose guesses – and that is all they can ever be”), but did want to decry “those awful tunnel entrances,” with their “ventilation stacks some 50 feet high,” and the loss of many trees, “particularly some of the old elms along the Reflecting Pool.

He did not object especially to inclusion of “the so-called 17th Street Drive,” which would be used by tourists in buses and cars (“it would be folly to try to deprive them of this pleasure”).

That one concession, however, did not mean “the park should be allowed to succumb to America’s waning passion for speedy, automobile travel.” The law on this point, specifically

Section 4(f), was “quite clear.” An alternative link between I-66 and I-95 on the Virginia side of the Potomac offered one possible “feasible and prudent alternative”:

As regards the Mall, however, the law is evidently on the side of what I would consider to be common sense, a livable environment and – I would not want to abuse this word – patriotism. [Von Eckardt, Wolf “A Freeway That Shouldn’t Be Built,” *The Washington Post and Times Herald*, August 18, 1972]

On the same day as Von Eckardt’s column, the *Post* carried an editorial against the proposal. The editorial board had “consistently favored a balanced transportation system” for the area. The paper “wholeheartedly” supported the Metro rapid rail system and keeping Amtrak “on the track,” and had questioned “the concept of an exclusive Highway Trust Fund.” Despite the advantages of the private automobile, “we believe it was a grave mistake to favor the car to the point where public transportation has badly deteriorated and commuting and railroad travel has become in many cases something of a nightmare.”

The editorial did not advocate eliminating the automobile, even as a means of commuting, but rather favored curbing “the zeal of highway builders and the powerful industries that support them.” Freeway battles around the country and in Washington had prompted the cancelation of “over-ambitious freeway plans on the grounds that our new concern for environmental values must take precedence over the actual or presumed convenience of motorists and truckers.”

These comments, the editorial continued, were meant to put the South Leg Freeway in perspective. “For it is another such long-standing, over-ambitious project.” The editors thought the Von Eckardt’s column on the editorial page made “a compelling case against it.” The editorial concluded, “It is not necessary to be against all additional freeways to see why this particular project should be dropped.” [“Washington’s Lincoln Tunnel,” *The Washington Post and Times Herald*, August 18, 1972]

A few days later, the *Post* published a letter from ACT’s James Govan criticizing the original *Post* article about the South Leg Freeway proposal. “Despair,” he said, was “the only word to describe my reaction” to the article, Govan began. The District’s plan “symbolizes, in a dramatic way, the continuing insensitivity of politicians and the highway engineers to the genuine desire of urban residents to see the end of massive freeways which desecrate their cities.”

He pointed out that the environmental impact statement claimed the plan would preserve and enhance the Lincoln Memorial and make possible policies to restrict cars in the center city. “Both claims are outlandish.” Further, the statement revealed that “nothing is held sacred by the highwaymen.” He referred to the claim that some cherry trees would have to be removed, but that they could be replaced:

With such logic we could temporarily relocate the President while the White House is torn down to make way for a freeway and then rebuild it. Cherry trees, White House, black communities – all seem vulnerable to the determination of highwaymen to serve the needs of the more important one passenger per car commuter.

Govan also considered the *Post's* characterization of the planned public hearing as an error:

According to Federal regulations issued by the U.S. Department of Transportation, this public hearing must permit public comment on “the need for, as well as the location of a Federal-aid highway” such as this proposed freeway.

Citizens did have the right to challenge the need for the freeway and he hoped they would.

Perhaps, Govan speculated, politicians who advocated freeways “must be made to understand that, while it may be true that most Americans cherish their cars, there are some things they cherish more – their homes, their parks, their national monuments.” Perhaps this latest proposal would “finally bring freeway foes and advocates together to say: this is one mile of freeway we can do without.” [Govan, James L, “Despair Over Another Highway,” Letters to the Editor, *The Washington Post and Times Herald*, August 23, 1972]

While officials, critics, and citizens debated the merits of the South Leg Freeway, NPS took action on a longstanding goal: to remove traffic from Circle Drive between the Lincoln Memorial and the Reflecting Pool. On August 22, NPS closed the drive to motor vehicles except during the morning peak period, 6 a.m. to 9:30 a.m. Beyond those hours, the drive was open only to pedestrians and bicyclists. On the first day, the morning and afternoon went smoothly until the evening peak period. The result was what John E. Hartley, the District Highway Department’s chief traffic engineer, called “a fantastic backup.” George Berglacy, the NPS Park Police’s spokesman, said, “I must admit, I now know what it’s like to be on the receiving end of an obscene telephone call.” Defensively, he added, “That was never meant to be a commuter route in the first place.”

The *Star* editors were less kind. “What has occurred . . . is a wholly predictable nightmare of congestion for motorists both leaving and entering the city.” In the early days after the closure, “cars have been backed up for more than a dozen blocks, in turn snarling other rush-hour traffic routes.” Protests were “steaming in,” and the editors expected the evening peak period ban to end soon. Perhaps a permanent ban was desirable, but will be needed for it to work was “the rational freeway pattern long proposed to divert traffic around that area—not the creation of makeshift bottlenecks.” [Kneece, Jack, “Tours 1, Motorists 0,” *The Evening Star*, August 23, 1972; “Calculated Congestion,” *The Evening Star*, August 25, 1972]

The experiment lasted until mid-January 1973 when Russell E. Dickinson, director of National Capital Parks, ordered removal of the barricades through the end of winter when tourist visits to the Lincoln Memorial were limited. The barriers would be restored in April because, Dickinson explained, the traffic streaming around the monument caused “extreme congestion and danger to visitors during the peak tourist season.” [“Circle Drive to Open,” *The Washington Post and Times Herald*, January 12, 1973]

With the South Leg Freeway hearing a week away, Peter S. Craig and Robert M. Kennan of the Committee of 100 on the Federal City wrote to ask Mayor Washington to cancel the event. As planned, the hearings “violate applicable federal highway administration regulations,” and District law. They contended that the agencies charged with planning highways were NCPC and

the city council. Neither the mayor nor the District Department of Highways and Traffic were the equivalent of a State highway agency or those two local bodies:

If the hearing proceeds as scheduled, it will be futile. Any decision to construct I-695 which is made on the basis of that hearing will be subject to certain reversal by the courts. In order to avoid further acrimonious litigation involving the District's proposed highway program, we urge you to cancel the hearing" [Griffin, James, "Freeway Heading Called Illegal," *The Evening Star and Washington Daily News*, August 31, 1972]

(As of July 12, *The Evening Star* and *The Washington Daily News* merged, creating a new combined masthead, soon changed to *The Washington Star-News*.)

The first day of the public hearing on September 6, held at 7:30 p.m. in the vast Commerce Department auditorium, opened with only about 100 people in attendance. Airis presented four South Leg alternatives, with emphasis on the preferred routing:

Our proposal is to remove Independence Avenue and to relieve the surrounding Memorial area of the sight and sound of city traffic.

Airis estimated that between 75,000 and 90,000 cars would use the South Leg connector between the Theodore Roosevelt Bridge and the Southwest Freeway by 1990. He told the audience that if the project is approved, it could be completed in early 1976 in time for the Bicentennial celebrations.

Sixteen witnesses testified on the first day. The *Star* estimated that "only about one fifth supported the proposed six lane freeway." As in the past, anti-freeway speakers denounced the hearing format and the authority of Colonel Starobin, whom Mayor Washington had appointed the presiding examiner. Peter Craig, as though preparing for a lawsuit if the city advanced the South Leg as proposed, took the lead:

Warning city officials that citizens groups already had successfully brought three lawsuits against other freeway and bridge plans, Peter S. Craig, an attorney with the Committee of 100 on the Federal City, declared that only the D.C. City Council could legally hold hearings on the proposed freeway and that the mayor had no legal authority to appoint a hearing examiner.

"The mayor-commission-whatsoever [has no role] other than to veto action by the council . . . it is the council not the mayor who is the equivalent of a state highways [sic] department here."

The *Post's* Jack Eisen also found the claims familiar, but said, "there was an added ingredient, the road's location in an area that constitutes one of the nation's most beloved shrines." Angela Rooney, representing the National Coalition on the Transportation Crisis, said, "Shafting the Lincoln Memorial in behalf of speed and tourists is a triumph of greed over logic." Former Representative Eugene D. Keogh (D-N.Y), chairman of the Franklin Delano Roosevelt Memorial Commission, recommended that the roadway, if it must be built, should be placed entirely in a

tunnel to avoid impacting the area for the planned memorial, which would be located on either side of the trench section.

The city's environmental agency offered lukewarm praise for the proposed freeway:

William McKinney, deputy director of the city's Department of Environmental Services, said his agency was "opposed to any proposal that would increase the level of traffic in the rush hours."

However, he did not oppose the project. He called the highway department's recommended design preferable and offered to help find ways to curtail downtown parking, provide reserve bus lanes, and do other things to reduce traffic downtown.

Eisen also found that the hearing was "tranquil," in contrast to "stormy opposition at freeway hearings in the past decade." He added:

While applause from the audience of 100 was generally restrained, it was apparent that most opposed the road.

Support for the project came from spokesman [sic] for Downtown Progress, the Washington Board of Realtors and the Metropolitan Washington Board of Trade.

Starobin, in response to a question from James Govan, said that Mayor Washington and the city council would "pay heed" to the opposition expressed during the hearing. [Griffin, James, "South Leg Debated at Highway Hearing," *The Washington Star-News*, September 7, 1972, Eisen, Jack, "Citizen Groups Attack Plans for Freeway," *The Washington Post and Times Herald*, September 7, 1972]

On the second and final day of the hearing, national conservation groups attacked the plan. As Eisen put it, the Wilderness Society and the National Wildlife Federation "fired broadsides" at the plan, according to the *Post*. They joined critics from local conservation groups:

"The south leg proposal is of much more than local interest," declared James G. Deane, executive editor of the Wilderness Society's publications. Attacking the highway department's insistence that the road will clear unwanted surface traffic from the park and Mall areas, Deane called the road "not remotely a park improvement; a freeway simply doesn't belong there."

Despite Secretary Volpe's agreement with Interior Secretary Morton, the Interior Department could not legally permit freeway encroachment on parkland, according to Robert M. Kennan, Jr., general counsel of the Wildlife Federation. Airis defended the plan by saying the freeway was intended mainly for tourists and business visitors, not "one-to-a-car commuters." [Eisen, Jack, "Conservationists Attack proposed I-695 Leg Near Lincoln Memorial," *The Washington Post and Times Herald*, September 8, 1972]

An editorial in the *Star* took an almost weary tone, stating that the scenario of the hearings "was as familiar as that of a well-loved theatrical drama. Supporters thought the tunnels would unsnarl

congestion while opponents considered it an esthetic disaster – and nothing will “shake, by as much as an inch, the advocates of either position.” Unlike the many other freeway controversies in the District, this one came down to a single issue, namely “the impact of the project on one of the nation’s most hallowed park areas.”

After all, the traffic was already there in the vicinity of the Lincoln Memorial, “bumper-to-bumper in rush hours,” as anyone “with eyes” could see. No families or businesses would be displaced and the proposal was not so much a new freeway as a link between existing freeways.

The tunnel proposal was not initiated by highway officials “but by the National Park Service itself, as a means of eliminating surface traffic from the park.” The editors thought the tunnel plan would do exactly that and that the NPS would support the new plan. The plan probably could be improved:

But there was no room for this sort of sensible, logical criticism in the emotional atmosphere of controversy that pervaded last week’s . . . hearing sessions. And that was an unfortunate loss. [“Return Engagement,” *The Washington Star-News*, September 14, 1972]

Later in the month, NCPC released a highly critical report on the proposal, calling it “insensitive” to potential aesthetic and environmental impacts. After reviewing the city’s draft EIS, NCPC questioned whether alternatives had been considered:

What alternatives, if any, have been studied for reallocating or reducing the traffic demand on the South Leg? For example, how many of these vehicles have both origin and destination on the east side of the Potomac River and how many could perhaps be accommodated on the Virginia side . . . ?

Can arterial streets such as Constitution Avenue carry part of the load on the District side, or can the Jefferson Davis Highway (U.S. Route 1) and/or the George Washington Memorial Parkway accommodate all or part of the Virginia traffic assigned to the South Leg?

NCPC also asked:

Has consideration been given to moving people rather than automobiles by public transit alternatives such as the Shirley Highway express bus system?

NCPC also disputed the city’s view that the tunnels would do little permanent damage to Potomac Park:

This view overlooks the encroachment of the project on the Washington Monument grounds, the reduction in the size of grounds and the almost complete separation of the Washington Monument, in some alternatives, from the Tidal Basin area.

In addition, NCPC said the proposal contained few details in map or text form, “making it difficult for anyone to fully compare and evaluate the planning, urban design and environmental impact of each alternative”:

This whole matter should be reanalyzed, clarified and the results documented in order to determine the new gain or loss in public park and open space. [Taylor, Walter, “Freeway Plans Criticized,” *The Washington Star-News*, September 20, 1972]

EPA also was critical of the draft EIS, calling for “much more evaluation and quantification” of the freeway. Robert J. Blanco, EPA’s regional chief, sent a letter to Leonard A. DeGast, assistant director of the District Department of Highways and Traffic, stating that, “The routing of through traffic into the urban core seems inconsistent with the goal of decreasing vehicles miles traveled in the core area.” The final EIS “should make an appraisal of the regional air pollution impact of the various alternatives.” EPA called for more information on traffic projections, the mix of trucks and automobiles that would use the freeway, right-of-way dimensions, and pollution from tunnel vents would affect building and plant life.

Blanco asked for more information on the timetable for highway and Metro construction, mass transit’s role in the regional system, alternatives to the proposed South Leg Freeway, and how the freeway would affect traffic patterns and parking in the city. Noting that the West Potomac Park area did not have separate storm sewers, Blanco asked for detailed information on surface drainage and design details for tunnel construction in the Tidal Basin area. He also wanted more information on noise potential and minimization, stating that “there should be a specific design noise level . . . rather than being content with the philosophy that a proposed project is merely quieter” than the current noise level. [“EPA Asks Details For ‘Inner Loop,’” *The Washington Star-News*, October 1, 1972]

I-66 Flounders

In March 1972, EPA had told Virginia that I-66 “could have a significant adverse effect on the environment.” EPA was concerned about increasing traffic congestion and air pollution; it criticized Virginia highway officials for not considering alternatives such as rail rapid transit.

As the State completed a new EIS, EPA applied a new rating system to I-66 in June. The project received a rating of 3 on a scale of 1 to 4, the next to lowest rating. A rating of 3 meant that I-66 needed “major revisions or major additional safeguards to adequately protect the environment.” Virginia, EPA stated, should consider alternatives such as rail rapid transit. [“EPA Gives

I-66 Plan Next to Lowest Rating,” *The Washington Post and Times Herald*, June 22, 1972]

WMATA was concerned that delays in approval of I-66 would affect the agency’s plan to build a Metro line in the freeway’s median from just west of Glebe Road in Arlington to Nutley Road near Vienna, a distance of about 6.5 miles. On July 6, the board of directors decided to build the line in the right-of-way, which the State had already acquired, regardless of I-66’s fate.

In fact, WMATA’s assistant planning director, Mathew Platt, told the board that building Metro in the right-of-way would cost less if I-66 were never built inside the Capital Beltway. If I-66

were not built, the Metro line would not require retaining walls and other features to ensure safe, efficient operation between two sets of freeway lanes. The Metro line would cost \$108.6 million if the freeway were built, but \$102.1 million if it were not. Director Harris of Fairfax said, "Quite obviously, the public facility that comes in late would have to pay the added cost." General Graham agreed. "This is the position we would take." Still, VDH owned the right-of-way, regardless of the freeway's fate, resulting in Metro having to negotiate to use the land. "That," Chairman Fisher put it, "will be an interesting negotiation."

The board did not literally approve use of the right-of-way. Its approval was in the form of approving two Metro stations, East Falls Church and West Falls Church, and the adjacent alignment in the highway corridor. ["Subway Route Set In I-66 Corridor," *The Washington Star-News*, July 7, 1972; Eisen, Jack, "Arlington-Vienna Metro Route Set," *The Washington Post and Times Herald*, July 7, 1972]

The State appealed to the U.S. Supreme Court on August 8 seeking to overturn the injunction blocking I-66. The appeal contested the decision of the 4th U.S. Circuit Court of Appeals that new Federal environmental laws should be applied retroactively to I-66 because it had not reached a point of completion that made construction inevitable. The State contended that planning for I-66 had reached a point before enactment of NEPA and other environmental laws that the location was virtually irreversible:

The likelihood of a substantial change with respect to the present plans for the project even after expenditure of seven to eight hundred thousand dollars for the study is extremely slight.

Land, the appeal pointed out, had already been acquired at a cost of \$28.6 million, with 76 percent of affected families relocated. [Associated Press, "Va. Appeals Injunction On I-66," *The Washington Post and Times Herald*, August 9, 1972; Barnes, Fred, "Original I-66 Engineers Chosen for Impact Study," *The Washington Star-News*, August 22, 1972]]

In August, VDH decided to postpone construction of the 2-mile section of I-66 between the Capital Beltway and State Route 7. A Fugate spokesman said the concern was not that construction might violate the court order blocking construction in Arlington County, but that opening the short stretch before the rest of the highway might create traffic snarls by dumping traffic on State Route 7 in Fairfax. The *Post* reported:

The spokesman said "preliminary indications are that the adverse effects would be greater than we originally thought" and that the department would decide within a month whether to proceed with the two-mile section early next year. Another highway department source indicated Fugate was leaning toward delaying construction of the section at least a year until a court-ordered review of the impact of the highway in Arlington is complete.

James Govan speculated that VDH's review of the 2-mile section "should indicate that they might have problems at a lot of points." James Collis of a Fairfax group thinking about going to court to block construction in the county said, "I would guess when they ran into some

opposition they thought to make sure of their groundwork.” [Mathews, Jay, “Va. Defers I-66 Link, Study Set,” *The Washington Post and Times Herald*, August 19, 1972]

On August 22, Virginia highway officials announced that they had hired the consulting firm of Howard, Needles, Tammen & Bergendoff to conduct the court-ordered study of I-66 in Arlington County. The State estimated that the study would take a year to 18 months. John Simonds’ Pittsburgh firm of Environmental Planning and Design would also participate in the study.

The fact that Howard, Needles, Tammen & Bergendoff’s findings in the 1950s led to the routing of I-66 in the county along the abandoned railroad right-of-way prompted immediate criticism. ACT’s Emilia Govan called the selection “very inappropriate at the very least.” The firm was being called on to reevaluate its own study. She recommended selection of a firm that was not previously involved with the freeway plan.

Fugate announced that he had appointed five officials to “monitor” the study:

- Martha V. Pennino, chairman, Metropolitan Washington COG;
- Joseph Alexander, head of the Northern Virginia Transportation commission;
- Joseph Fisher, chairman, WMATA;
- A. Leslie Phillips, vice chairman of the area TPB; and
- Jimmie Singleton, head of the Northern Virginia Planning District Commission.

Emilia Govan denounced the group for being predominantly pro-highway. “Representatives of our organization and other citizens groups and commissions concerned with I-66 and related transportation and environmental issues (should) be immediately included in the membership of the monitoring committee. [Barnes, Fred, “Original I-66 Engineers Chosen for Impact Study,” *The Washington Star-News*, August 23, 1972]

After so much negative publicity about I-66 in recent years, supporters of the project formed Citizens for I-66 to advocate for the route. Funded by businesses and private citizens, the group flooded Arlington and Fairfax Counties with 16,000 leaflets and 20,000 red-white and blue bumper stickers extolling the route. The leaflet called I-66 “an outstanding example of progressive transportation planning,” with its small parks, bicycle trails, and platform for tennis courts.

Other groups joined in support, including the chamber of commerce for the two counties and the Highway Users Federation for Safety and Mobility. The federation’s Robert Justice said, “I’m convinced that the area is going to die as a viable economic entity if I-66 is not built. The area is going to strangle to death in traffic.” Rudolph G. Seely, a real estate developer in Fairfax, said he participated in the effort to respond to highway opponents who were “terribly well-organized, vociferous, and well able to put forth their point of view.” By contrast, he said, “I feel that the users of motor cars and the traffic planners have not been adequately heard in the controversy over I-66.” [Mathews, jay, “I-66 Friends Launch Drive Backing Plan,” *The Washington Post and Times Herald*, August 25, 1972]

When Mrs. Govan wrote to Fugate with questions about how he selected the consultant, he replied that, "I can see nothing to be gained in answering detailed questions you list as to the consultants. Both firms are nationally recognized as having the highest competence for carrying out transportation and environmental studies such as the one the Highway Commission is now undertaking in the I-66 corridor."

As for her interest in attending a September 5 meeting, Fugate said it was limited to "representatives of the Highway Department and members of [I-66 advisory] committee." He added that, "Later, groups such as yours will have full opportunity for participation." Fugate said the purpose of the meeting was to establish guidelines for the study.

Mrs. Govan was disturbed by the reply:

This is ridiculous. If the citizens aren't allowed in at the first stage of discussions of the study, the scope of it will have been determined before any citizens have any input into it. We feel they must do a study of non-highway alternatives. [Griffin, James, "Fugate Refuses I-66 Answers," *The Washington Star-News*, August 26, 1972]

The Justice Department announced on August 29 that it had decided not to join the State in asking the Supreme Court to review the U.S. Fourth Circuit Court of Appeals' April 4 decision blocking I-66 in Arlington County. The *Post* reported:

Deputy U.S. Solicitor General Lawrence G. Wallace said yesterday government attorneys felt construction of the highway might begin sooner if the federal government did not ask the Supreme Court to review the lower court ruling

Wallace said Solicitor General Erwin N. Griswold decided not to challenge the court of appeals ruling after considering the affect [sic] of the case on other environmental suits in progress and the likelihood of a favorable Supreme Court.

An attorney for the Virginia Highway Department understood the decision in the context of the pending presidential election. "It's an election year and it's an environmental suit I can see that the administration does not want to come down on the wrong side of a popular issue." He summed up by saying that based on his discussions with Justice Department attorneys, "They're thinking about a nation-wide problem, and we're thinking about a statewide problem." [Mathews, Jay, "U.S. Quits Fight on I-66 Plan," *The Washington Post and Times Herald*, August 30, 1972]

Solicitor General Griswold went a step further in late September by asking the Supreme Court to turn down Virginia's request for a hearing. His memorandum to the court referred to the Circuit Court's ruling as "somewhat vague" and potentially "troublesome" as the government defended other highway decisions. "Reopening the hearing process with respect to the thousands of federal-aid highway projects under way throughout the country would cause significant administrative difficulties and, in our view, was not required by Congress." He continued:

However, because of the particular facts of the case, including the possibility of very substantial changes in the relevant factors since we believe the decision [by the Court of

Appeals] does not establish a precedent of sufficiently general applicability to require further review by this Court.

The *Post* reported:

A spokesman for the Virginia highway department expressed surprise at the Griswold action. Federal attorneys “have been telling us this decision would give them trouble in the rest of the country,” the spokesman said.

Sources close to the state highway department feel the federal government is simply reluctant to take firm action against environmentalists in an election year.

Attorneys for ACT and other I-66 opponents said they were pleased with the action. [Mathews, Jay, “Bid to Review Ban on I-66 Snagged,” *The Washington Post and Times Herald*, September 30, 1972]

The Solicitor General’s action reduced the likelihood that the Supreme Court would consider the State’s appeal. On November 6, that expectation was realized when the Supreme Court declined, without explanation, to review the U.S. Court of Appeals’ ruling. With four votes needed, only Chief Justice Burger and Justice Lewis F. Powell, Jr., voted to take up the case. Donald S. Burris, an attorney for the citizens groups fighting I-66 said the court’s decision “represents total victory for the aspects of the case we are litigating,” while Emilia Govan said:

The conclusion is very good for those of us who want them to re-evaluate the whole thing. It puts the burden on the highway department, which is as it should be. [Mathews, Jay, “High Court Backs Delay of Rte. 66,” *The Washington Post and Times Herald*, November 7, 1972]

Virginia’s public meeting at the Kenmore Junior High School a week later did not go well, as the *Post* recounted:

About 250 persons came to a “public participation workshop” on the proposed Interstate Rte. 66 last night to say that the Virginia Highway Department’s approach to public involvement is “totally unacceptable.”

Loud applause frequently interrupted Emilia Govan, co-chairman of the Arlington Coalition on Transportation, as she castigated highway officials as “nonelected bureaucrats (who) veto any decisions made by the citizens, a (highway department) consultant team or elected officials”

“To give policy-making power to highway officials and to deny it to citizens and elected officials is totally unacceptable – not only because the highway officials are irrevocably committed to I-66 as planned, but because these officials are not directly responsible to the people,” said Mrs. Govan to a burst of applause at last night’s meeting.

She suggested that the State’s steering committee be revised to include elected officials from the affected communities and the District of Columbia, the road’s terminus.

Other speakers affirmed support for some of her statements, while about 40 people shouted out opposition [to them].

Some also objected when Mrs. Govan called for audience adoption of three criteria to form the basis for all subsequent phases of the study: “To maximize the use of mass transit for commuting and other travel purposes; to prevent degradation of the natural and human environment, and to move the greatest number of people in the most efficient economical and convenient manner.”

County Supervisor Alexander, a member of the steering committee, objected that, “We should not have a plebiscite tonight.”

Mrs. Govan countered that, “This is billed as a public workshop and it’s the only forum we have to express our opinions.” The audience overwhelmingly approved her three criteria. [“Va. Highway Officials Blistered on I-66 Plan,” *The Washington Post and Times Herald*, November 15, 1972]

The Federal-Aid Highway Act of 1972

On March 16, 1972, Secretary Volpe appeared before the House Subcommittee on Roads, during its hearing on the planned Federal-Aid Highway Act of 1972. Representative Harsha, during his question period, asked the Secretary to respond in writing to a set of questions, one of which was:

Question 18. Do you believe if we had completed the freeway system in the District of Columbia, that the congestion problem experienced in the Capital of the Nation would be as severe as it presently is?

Answer. In some respects, yes, because in the Washington area the congestion problem is related to the peak hour commuting problem. The planned freeway system is related to the peak hour commuting problem. The planned freeway system was planned only to serve a portion of peak hour traffic (such as motorists without alternative means of transportation, car pools, trucks, buses and taxis) and general traffic throughout the day.

A portion of the problem may have been alleviated by the planned freeway system had it been completed. However, the remainder [of the problem] would not have been because much of this demand really could be better served by an improved public transportation system. The private automobile is a relatively inefficient method of meeting peak hour demand in densely settled urban areas, particularly since the average ridership levels is so low in this country. In addition, new freeway capacity can influence land use patterns and induce new traffic growth, so a reduction in congestion is often short lived. Thus, new road capacity in and of itself to accommodate more automobiles alone will not solve the problem of peak hour congestion in such areas.

In an earlier report to Congress, I recommended a freeway system which is adequate to meet the general traffic needs as well as a portion of the peak hour traffic of the District of Columbia. You should note my emphasis on continued support to the METRO system

and integration with the existing bus companies to meet the overall transportation needs of this area.

In the long run, I believe that the peak hour commuting problem can be met only by providing a balanced transportation system for the D.C. metropolitan area. This would include reliance on the METRO system presently under construction, the new freeways which I recommended for the District of Columbia, a fully coordinated and integrated bus system, and better utilization of existing street capacity. The Shirley Highway [express bus lanes] project is an example of the latter approach. I strongly believe that the proper combination of the above elements offers the best hope for reducing commuter traffic congestion. [1972 Highway Legislation, Hearings before the Subcommittee on Roads of the Committee on Public Works, House of Representatives, 92nd Session 2nd Session, Committee Print 92-32, pages 508-509]

On March 21, the subcommittee heard from a delegation from Massachusetts, including Secretary Altshuler. With the full support of Governor Sargent, he said his “primary purpose” was to urge support for “a very specific provision.” At the time, Federal-aid highway legislation recognized that Federal law authorized 200 miles, known as Howard-Cramer mileage after the House sponsors, for alternative routes if States decided not to build an Interstate highway. With that mileage already committed to routes around the country, Secretary Altshuler favored an alternative that would allow city officials to cancel unpopular Interstate highways without losing the millions of dollars – based on the 1972 ICE – associated with them:

The provision that we desire is part of the official program that shall be presented tomorrow by the American Association of State Highway Officials (AASHO). The language of the AASHO recommendation in which we are so urgently interested provides that, where it is determined that previously approved Interstate links cannot be constructed, the responsible officials at all levels of government should be authorized:

To negotiate a compromise solution, satisfactory to the Secretary, that will satisfy the intent of Congress of completing a connected system aid, furthermore, that in arriving at a compromise and negotiated solution, the amount of funds included in the present cost estimate for the section of interstate highway involved, and not the mileage, should be the controlling factor.

This recommendation was endorsed by the chief administrators of the Nation's State highway departments by a vote of 42-4 in the official AASHO balloting on the 1972 legislative program – that took place last month.

Its implementation would require no more than the alteration of two numbers in the so-called-Cramer-Howard amendment of 1968 (Public Law 90-238).

Secretary Altshuler explained:

We believe that a sufficiently flexible highway program must be able to accommodate the finding that in some urban corridors it is no longer feasible to carve new rights-of-way –

and to do so without imposing harsh financial penalties upon the States involved. In these urban corridors, the States concerned will generally have to undertake large transportation investments, both highway and transit, of a noninterstate nature In cooperation with AASHO, we urge that Interstate funds be made available for reassignment to meet these needs where such reassignment is compatible with the objectives of the Interstate program. [pages 541-548]

After Secretary Altshuler, Secretary Hughes of Maryland testified on the same issue. He said that Maryland had built or programmed 358 miles of Interstate highway. But about 30 miles in the Baltimore area and Maryland's Washington suburbs were not built. This unbuilt mileage included I-95 and I-70S inside the Capital Beltway as well as segments of I-70N, I-83, I-95, and I-395 in Baltimore. Like Altshuler, he asked Congress to allow the State to substitute new freeway routes for the portions that may be abandoned, with the substitution based on cost (about \$1 billion) rather than mileage. "Public opposition connected to a great extent with environmental impact issues continues to overshadow the basic need to provide for a high level of transportation service in these corridors."

He endorsed the AASHO amendment and informed the subcommittee that Maryland "proposed to develop a logical system of replacement Interstate facilities, consistent with present Federal Interstate funding commitments, for use in the event certain controversial segments of the programed system are not construction." To correct "travel deficiencies" caused by the inability to construct certain routes, Maryland would proceed on a priority basis:

First priority in the replacement system will be given to facilities that serve to replace the function of a missing segment in a nearby location in order that a continuous Interstate routing is possible.

Next, priority will be given to facilities that will provide alternate routings for Interstate movements in order to relieve existing Interstate facilities that will receive additional, heretofore unanticipated travel demand.

Finally, facilities will be proposed to satisfy Interstate movements that have not been provided for in the presently programed system. These facilities will tend further to provide alternate routings for Interstate movements as they will interchange with the existing system.

This system of replacement facilities will be developed so that each project meets Interstate System criteria, contributes to the formation of a local network of freeways to serve Interstate movement, and is capable of construction within a reasonable time frame. [pages 549-552]

Secretary Hughes told reporters that substitutes for the controversial urban routes might include an expressway from Baltimore to Annapolis and upgrading the John Hanson Highway (U.S. 50) between Washington and Annapolis. He stressed this was not a proposal, but simply an illustration of where Maryland might shift the mileage if Federal law permitted. [1972 Highway

Legislation, pages 541-548; Eisen, Jack, "Permission to Alter Road Plans Asked," *The Washington Post and Times Herald*, March 22, 1972]

On March 28, the subcommittee heard from Francis A. Porter, president of Porter Associates, Inc., in Landover Hills, Prince George's County, Maryland. He testified, however, as executive secretary of the Committee for a Balanced Transportation Policy in the county. The committee supported Metro, but also I-95 through the county and the District of Columbia, as well as the necessary support roads and public transportation. His prepared statement stated:

Our concern dates from the adoption last Dec. 28th of the District of Columbia City Council's report on the Interstate Freeway System in Washington The report declares that the New York Avenue Industrial Freeway should be constructed to a connection with a greatly improved Baltimore-Washington Parkway as a "realistic alternative" to I-95, implied in the decision is belief that this route will handle adequately trips with a Washington destination, and that interstate through traffic will use the Beltway. [sic]

He objected to the current study in Maryland of I-95 within the county, as well as statements by the District's city council that it did not want to force "repugnant" decisions on the county by pursuing its segment of I-95. Opponents suggested that Metro and improvement of existing highways would be able to handle the traffic:

Opposition was climaxed by a hot fight over a bill (which fortunately failed) in the State legislature that would have denied the Maryland share of the proposed study, thus killing the entire project. The astounding thing is that the opponents, both in the District and in Maryland, have given no indication of understanding the relationship of I-95 to Metro although rapid transit is the keystone of their argument against completion of the highway.

He pointed out that Metro was supposed to occupy the I-95 right-of-way from the vicinity of New York Avenue to 2 miles beyond the District line in Maryland. WMATA was planning to place two Metro station on air rights over the highway, with Metro occupying the I-95 median strip for the first 2 miles after leaving the District. Metro costs for the line are all predicated on right-of-way acquisition, engineering, and construction of I-95:

Metro officials I have talked to literally shudder when asked what additional money must be programmed for this line. And they state flatly that elimination of I-95 will substantially delay and possibly eliminate the entire segment from Union Station to Greenbelt. On the other side of the coin, they admit that simultaneous construction of Metro and I-95 – which has not been planned – would probably bring substantial savings in the two projects and offer an advanced service schedule for Metro.

He acknowledged that construction of I-70S through Montgomery County to the District was dead. However, the committee did not consider any alternatives to construction of I-95 to be acceptable. The committee thought that the I-70S funds should be shifted to I-95. Porter

recommended the Committee on Public Works include a provision in the 1972 Act that would restore I-95 to the District's freeway system and:

1. Recognize that I-95 through Prince Georges County and the District of Columbia is an essential part of the transportation network serving the entire East Coast and guarantees adequate access for all of the nation's citizens seeking to visit their Capital City.
2. Recognize that large amounts of taxpayers' money can be saved by the simultaneous construction of I-95 and the Rhode Island-Prince Georges Plaza segment of Metro.
3. Recognize that construction of I-95 through the urban sections of Prince Georges County and the District of Columbia should meet every possible criteria contributing to the reductions in disruption of neighborhoods, and impacts on environmental factors. This should include standards for compensation for unavoidable noise pollution to neighboring properties, as well as improvements in the present system of compensation for properties affected by public construction projects. [pages 825-831]

On March 28, the subcommittee heard from Grosvenor Chapman and Gardner Palmer of the Citizens Association of Georgetown regarding the Three Sisters Bridge. Palmer, who chaired the association's Committee on Legislation, cited the Supreme Court's decision not to hear the appeal:

We are not here to kick a dead horse. In fact, we do not believe it is really a dead horse, and that is why we wish to present testimony before the subcommittee, and we feel that there are two difficult situations that must be faced.

One situation was the provision in past Federal-aid legislation requiring construction of the bridge, with Secretary Volpe and the District now required to go through the whole review process again, which would "cause a great deal of unnecessary anguish throughout the city of Washington, and throughout Arlington County."

The other situation was a "Government-authorized study and a mining study in the historic district of Georgetown's waterfront." At President Nixon's direction, the Federal Government was financing the study partly to preserve the historic waterfront "but also as part of the 1976 Bicentennial Exposition and celebration." Georgetown, as he mentioned, predated the District of Columbia's creation as the Nation's capital.

Palmer said that much of the debate was on the bridge itself – "you might say one abutment of the river bank to the other" – without enough attention paid to the effect of the traffic after it reaches the District. "We have taken the position that if we must accept it, we must accept it," but he added, "all we ask is that it be planned with the greatest delicacy" He pointed out that since enactment of Section 23 of the Federal-Aid Highway Act of 1968, "traffic has not grown in the way that it was predicted it would grow, so that even more so today it would appear that the bridge is not going to be necessary."

He urged repeal of Section 23, which the prepared statement called "a colossal mistake," to allow planning to proceed without the bridge dictating six lanes of traffic through Georgetown. Even

with Section 23 still a law, the Three Sisters Bridge “should not be built and, in all probability, will not be built.” In view of court rulings, it probably could not satisfy Title 23 and other relevant laws. Residents of the District and Arlington County did not want the bridge. Further, if built, it would interfere with solutions to the traffic problems in Georgetown by funneling six lanes of traffic through the area.

When the association completed its opening statement, Chairman Kluczynski agreed to place their lengthy formal statement in the record. He said that before inserting Section 23 in the 1968 Act, “I was very interested in that, and drove out there, and I saw three rocks sticking out of the river and they wanted to name it that, and there is quite a history to it.”

When Chapman said he had not been able to cover the specifics of the Georgetown waterfront and the effect of the added traffic, Chairman Kluczynski interrupted to say he had to be on the House floor in a few minutes for a vote. “You could give the story to our engineer-consultant here, and we will have it in the record in its entirety.” [pages 897-908]

The subcommittee concluded its hearings on April 12, 1972. The report on the hearings contained statements and letters received beyond the hearings themselves on many issues, including several on the District’s freeway controversy. One was an April 12 letter from Robert F. Koch of Bethesda, Maryland to Chairman Kluczynski. Koch, speaking as an individual, wanted to go on record as supporting the freeways in the DeLeuw-Cather report. He said that the people of Montgomery County also supported the North-Central Freeway, notwithstanding the State’s recent decision to drop the freeway “in apparent ignorance of the strong public support” for it.

He enclosed a copy of his letter to Senator Mathias stating that “any talk of ‘balanced’ transportation in this area is a joke.” The Metro subway “enjoys a sacred status,” but I-66, the Three Sisters Bridge, the North-Central Freeway are “in serious trouble after years of delay” while the Northwest Freeway was dropped. “Everyone seems to forget that Metro runs on tracks and requires a complete road system to supplement and support it.”

Koch told Senator Mathias that the “well-publicized opposition of organized groups” had led to the “popular fallacy” that the public opposed freeways. This “completely false” impression may stem partly from the turnout at hearings. While the public “stays away in droves” and relies on the wisdom of its elected representatives, the hearings “are usually packed with objectors, who impress these same officials with their vehemence and create a completely false notion of a ‘popular mandate’ to do away with freeway planning.”

He illustrated “the monumental injustice of all this” by citing the example of the North-Central Freeway. When Representative Gude polled his constituents in mid-1971 on construction of the North-Central Freeway, 54 percent favored the freeway. The 1969 Quayle survey found that two-thirds of District residents favored the 1968 freeway system. “Obviously it is time for some statesmanlike action on the part of our elected officials to get the job done in spite of the obstructionists.”

In his letter to Chairman Kluczynski, Koch observed that he had chaired the Transportation Committee of the Bethesda-Chevy Chase Chamber of Commerce:

I have observed the steady deterioration of highway planning in this metropolis over the past ten years, thanks to a parade of Johnny-come-latelys in the NCPC and local governments, who have done a great job of cutting, slashing, changing, delaying, etc. The attrition continues today, with the D.C. City Council, DOT, HUD, EPA, and various courts all thwarting the people's needs and the will of Congress expressed in the 1968 Highway Act.

If we are to get the roads we so badly need here, only Congress can override the messy situation and get the job done. [pages 897-901, pages 1025-1026]

Dr. Leslie Logan of Arlingtonians for the Preservation of the Potomac Palisades, one of the litigants in the Three Sisters Bridge case, submitted a statement to the House Subcommittee on Roads later in the month. He urged repeal of Section 23 of the Federal-Aid Highway Act of 1968, although his primary concern was the Three Sisters Bridge. He questioned whether additional capacity was needed in view of recent traffic studies:

On May 19, 1971, there were no more commuters at the morning peak hour from Virginia to Washington than there were in 1964-65, despite population growth.

Aside from need, the Three Sisters Bridge “would destroy the beauty of the Potomac River gorge and adversely affect the national parklands along the Potomac River for several miles.” On a practical level, “it would be a large source of air and noise pollution.” Further, Section 23 and the bridge itself “are probably contrary to law,” as determined by the courts.

The statement pointed out that NPS Director Hartzog, in June 1965, had identified viable alternatives to the proposed bridge:

These alternatives include greater use of the bridges already built by reconstructing approaches and providing additional capacity on Chain Bridge and Key Bridge, widening George Washington parkway roadway from Spout Run to Theodore Roosevelt Bridge from four to six lanes, and providing connections between Highway 50 and Jefferson Davis Highway to facilitate the movement of traffic to the 14th Street bridges and points south.

He also pointed out the opposition to the bridge in Arlington County:

The bridge would not be consistent with Arlington's plans for the future; a bridge has two ends – it cannot be consistent with local planning on one side and not on the other. [pages 897-901, pages 1048-1050; Barnes, Fred, “3 Sisters Alternative Asked,” *The Evening Star*, April 20, 1972]

In addition, Douglas M. Parker of the law firm of Lankler and Parker provided a letter to Chairman Kluczynski on behalf of the Connecticut Avenue Association and the Committee Concerned for K Street. The groups opposed the location of the proposed North Leg of the Inner

Loop along K Street, NW. In response to Section 129 of the Federal-Aid Highway Act of 1970, the District of Columbia and Secretary Volpe had recommended an alignment along K Street. In doing so, however, they had “ignored the expressed view of Congress in this matter and failed to provide a sound basis for Congressional action.”

The 1968 ICE included a North Leg “in the vicinity of T and U Streets, N.W.” and that was the route specified in Section 23 of the Federal-Aid Highway Act of 1968. In the District’s Department of Highways and Traffic report dated January 12, 1970, the city rejected the alignment along T and U Streets:

At the same time, however, the report pointed out that a tunnel under K Street “would require serious business disruption during the construction period.” The District of Columbia City Council also received testimony on February 3, 1970, to the effect that (a) a tunnel under K Street could not serve as a traffic distributor; (b) the cost of a K Street tunnel would be prohibitive (c) [sic] the construction of a K Street tunnel would produce an enormous, perhaps fatal, amount of disruption to the business community in that area, and (d) a large number of families would be displaced by a K Street tunnel.

Parker wrote that the two organizations he represented presented this testimony to the city and that it “was not challenged by a single witness.”

Nevertheless, on February 17, 1970, the city council had recommended a tunnel under K, L, or M Streets. Further, the council’s report “stated that no route north of M Street was acceptable and that a tunnel connecting the E Street Expressway with Downtown was the only acceptable alternative to K, L, and M Streets.”

Quoting the House Report on the Federal-Aid Highway Act of 1970, Parker cited the call for “careful consideration” of the “potentially disastrous effects” that tunnel construction would have on K Street businesses. Section 129 of the legislation called for study of the North Leg of the Inner Loop and reports to Congress by the District and the Secretary regarding the project “including any recommended alternative routes or plans.”

Despite the expressed concerns, the District’s consultant recommended the K Street alignment for the North Leg and the city council endorsed the recommendation. Secretary Volpe concurred in part by stating that there should be “a connector facility along the K Street corridor” but expressing reservations “as to the type of facility.” He noted the cost and potential community disruption along the corridor, but “offered no plan as to how such problems might be overcome” beyond further consideration of alternatives such as “a surface improvement concept with or without grade separation.”

Parker concluded:

It appears that neither the consultants, the District of Columbia, nor the Secretary of Transportation have observed the Congressional mandate to explore fully all of the available alternatives. Accordingly, we submit, Congress should now reject the K Street

alignment in explicit terms and direct the further study of the remaining alternatives.[pages 1037-1038]

The 1972 House Bill

On September 14, the Subcommittee on Roads approved a provision as part of the Federal-Aid Highway Act of 1972 (H.R. 16656) that would prohibit any court from halting construction of the Three Sisters Bridge:

Three Sisters Bridge

Sec. 139. No court shall have power or authority to issue any order or take any action which will in any way impede, delay, or halt the construction of the project described as estimate section termini B1-B2, and B2-B3 in the 1972 Estimate of the Cost of Completing the National System of Interstate and Defense Highways in the District of Columbia and as estimate section termini 02-03 in the 1972 Estimate of the Cost of Completing the National System of Interstate and Defense Highways in the Commonwealth of Virginia, in accordance with the prestressed concrete box girder, three-span design approved by the Fine Arts Commission, known as the Three Sisters Bridge. Nor shall any approval, authorization, finding, determination, or similar action taken or omitted by the Secretary, the head of any other Federal agency, the government of the District of Columbia, or any other agency of Government in carrying out any provisions of law relating to such Three Sisters Bridge be reviewable in any court. [H.R. 16656, 92d Congress, 2d Session, in the House of Representatives, September 14, 1972, pages 107-108]

The committee's report on September 25 explained that the history of the Three Sisters Bridge had been "one of intense emotion, countless years of planning and dispute, court action and literally millions of words in the press and other media." The committee, by enacting Section 23 of the Federal-Aid Highway Act of 1968, but "no one moved toward construction of the bridge until late in 1969," when "other circumstances produced a change in attitude and the bridge was started." Construction was halted by "endless court suits," resulting in Chief Justice Burger's explanation that the Supreme Court would not consider an appeal "solely out of considerations of timing." The Chief Justice noted that the Court of Appeals' decision "unjustifiably frustrated . . . the will of the Congress." In view of his opinion that Congress could act on the matter "even to the point of limiting or prohibiting judicial review of its directives." The committee was acting "accordingly." [Federal-Aid Highway Act of 1972, Committee on Public Works, U.S. House of Representatives, 92d Congress, 2d Session, Report No. 92-1443, September 25, 1972, page 17]

A spokesman for Chairman Kluczynski reaffirmed that role of Chief Justice Burger's invitation to congressional action:

Subcommittee sources said the measure is aimed at U.S. Court of Appeals Judge David Bazelon, who in ruling in favor of the citizen groups said that Volpe, in deciding to build the bridge, should not have considered the pressure of Natcher and other House members to force freeway construction in exchange for subway money.

Representative Schwengel had not been present for the vote on the provision but said at the time that he would attempt to block the measure when the full committee takes up the bill:

I'm disturbed that the subcommittee completely ignored the wishes of the people of the District. We treat them like foreigners. In every other area we have state highway commissions listening to what the local community wants. [Green, Stephen, "Amendment Would Halt Court Action on Bridge," *The Washington Post and Times Herald*, September 15, 1972]

Despite efforts by Representatives Schwengel and Abzug, the committee retained the provision in the final bill.

The bill's Section 140 also was related to the District freeway disputes:

District of Columbia

Sec. 140. None of the provisions of the Act entitled "An Act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities", approved March 2, 1893 (27 Stat. 532), as amended, shall apply to any segment of the Interstate System within the District of Columbia.

The committee's report explained that:

This 79 year old Act is still applicable to the nation's capital today. At a time when a vast modern highway system has been developed throughout the nation, there is always the possibility in the District of Columbia that the application of this Act can in some manner impede the need to develop a modern highway program for Washington.

No city in the United States needs a full scale highway program greater than does Washington, D.C. to whom hundreds of thousands of tourists flock every year to visit its scenic and historic wonders.

The Committee feels that to allow such an Act the continuation of which might even remotely prevent the development of a full scale highway program for the nation's capital is a disservice to the city of Washington, to its citizens, and to the American public across the country, and for this reason urges it repeal in this section, with respect to the Interstate System only.

The report pointed out that, for example, the 1893 Act "prohibits the construction of a highway within the nation's capital at a width great than 160 ft."

As for the provisions in the 1968 and 1970 Federal-Aid Highway Acts, the committee stated, "The reports received by the Committee . . . have been deficient, and for this reason, the Committee now states that under Section 23(a) of the Federal-Aid Highway Act of the 1968, the entire Interstate System in the District of Columbia should be built forthwith." The exception was the South Leg of the Inner Loop, "on which recent hearings have been held by the District of Columbia which should produce a satisfactory plan for its construction." [page 18]

The bill also addressed the District Interstate controversies in Section 110 on “Federal-Aid Systems.” In recent years, Congress had tried to speed completion of the Interstate Construction Program by imposing deadlines for submitting PS&E for all remaining segments. If a State did not submit the documentation on time, the Secretary of Transportation was to remove Interstate designation for the segment. Section 110 extended the due date by 2 years to July 1, 1977. Committee members recognized that the deadline would give District officials an easy way to kill the city’s remaining Interstate segments by simply not submitting the documentation. Therefore, Section 110 exempted the District of Columbia from this provision. (The Senate included a similar provision in its version of the 1972 Act, but did not exempt the District of Columbia from the deadlines.) [page 32; Green, Stephen, “Amendment Would Halt Court Action on Bridge,” *The Washington Post and Times Herald*, September 15, 1972]

Secretary Volpe had written to Chairman Blatnik on September 18, before the committee vote, to say the Nixon Administration strongly opposed the provision on the Three Sisters Bridge. In general, Secretary Volpe said, the administration believed that congressional attempts to exempt individual projects from Federal requirements or court review “are not desirable.”

Further, “if the purpose . . . is to expedite the processing of the Three Sisters Bridge project, it is our opinion that it does not achieve that purpose.” Because “the provision is prospective,” Section 139 “would leave the existing court order standing.” Department of Transportation attorneys believed that “processing the Three Sisters Bridge without complying with the existing court order may lead to contempt proceedings against the secretary of Transportation [sic].” The committee, as the *Star* pointed out, ignored the letter in taking final action on the bill.

Martha Angle, reporting for the *Star*, pointed out that the committee received Secretary Volpe’s letter before voting on the bill, but “members apparently ignored his objections. A much more vigorous debate is likely when the measure reaches the House floor next week.” She added that even if the provisions related to District freeways survived the House debate, “they could be eliminated in conference with the Senate.” [Angle, Martha, “Volpe Scores House on 3 Sisters Action,” *The Washington Star-News*, September 23, 1972]

The bill also authorized Interstate construction funds through FY 1979 and approved use of the 1972 ICE for apportionment of funds in FYs 1974 and 1975. Secretary Volpe had submitted the ICE to Congress on December 29, 1971. The report stated that the previous ICE had estimated the total cost of the Interstate System would be \$69.870 billion (Federal share: \$62.5 billion). The 1972 estimate was \$76.3 billion (Federal share: \$68,26 billion), “without allowance for possible escalation in future program years.” As in past years, the difference in cost since the 1970 ICE could be attributed to Interstate additions and major adjustments, unit price changes, new legislation added increased emphasis on social considerations, added costs for preliminary engineering, right-of-way acquisition, and construction items.

[A Revised Estimate of the Cost of Completing the National System of Interstate and Defense Highways, Communication from the Secretary of Transportation Transmitting a Revised Estimate of the Cost of Completing the National System of Interstate and Defense Highways,

Pursuant to the provisions of Section 104(b)5, Title 23, United States Code, Committee on Public Works, U.S. House of Representatives, 92d Congress, 2d Session, Committee Print 92-29, February 1972, pages 13-14]

On September 25, 1972, the House Committee on Public Works released a report on its version of the Federal-Aid Highway Act of 1972.

Representatives Abzug, Schwengel, and Charles B. Rangel (D-NY) submitted additional views, totaling 11 pages, opposing both D.C.-related provisions:

We believe that local highway officials and local citizens should have the opportunity to be heard with regard to highway construction projects, and that they should also have the right to a day in court if they believe that such a project is in violation of law. To prevent them from having that say, and that day in court, as section 139 attempts to do, violates basic principles of American democracy and may be unconstitutional

In addition, we oppose section 140 of the bill, which we feel would wreak havoc with any further Interstate highway planning and construction in the Nation's Capital.

The bulk of their statement was divided into four lengthy segments:

I. SECTION 139 WOULD PERMIT AN INTERSTATE HIGHWAY IN VIRGINIA AND FEDERAL-AID HIGHWAYS THERE AND ELSEWHERE TO BE CONSTRUCTION UNLAWFULLY

Although the District of Columbia has a unique status under the Constitution, the Commonwealth of Virginia was a sovereign State. Congress might have the authority to direct construction of the Three Sisters Bridge in the District, but had never exercised such authority in Virginia or any other State. "The citizens of Virginia and the other States, acting through their duly authorized officials, have had authority to decide whether, where and in what manner Interstate highways should be construction." By ordering the District to build the Three Sisters Bridge, which touched down in Virginia, Section 139 would deprive Virginia's citizens of that authority, thereby creating "a dangerous precedent" for the Federal-aid highway program.

The prohibition of judicial review went even further, but was unclear as to exactly which elements of Title 23, United States Code, or related laws, such as NEPA, would not have to be satisfied because citizens could not go to court based on noncompliance. "We do not know the answers to these questions, for section 139 does not tell us."

Further, the Constitution provided for a court system, headed by the Supreme Court. The three Representatives had "serious doubt as to the constitutionality" of Section 139, which deprived citizens of their right to due process of law in the courts.

II. SECTION 139 UNWISELY AND UNNECESSARILY INTERFERES IN A LOCAL HIGHWAY CONTROVERSY IN THE DISTRICT OF COLUMBIA AND NORTHERN VIRGINIA

Of Section 23 of the Federal-Aid Highway Act of 1968, the Representatives said, “No legislation has evoked a more anguished or unanimous cry of protest from the people in the Nation’s Capital.” Opposition to the provision was widespread and intense “both within the District and throughout the country,” with President Johnson referring to it as “the most objectionable feature in this bill” and “inconsistent with a basic tenet of sound urban development – to permit the local government and the people affected to participate meaningfully in planning their transportation system.” The Representatives quoted extensively from President Johnson’s statement on why he signed the legislation, including his point that he did so only because Section 23 called for construction in accordance with Federal highway law.

They described the history of court cases involving the Three Sisters Bridge. “Some have said that the U.S. Court of Appeals’ decision ‘defied’ the will of Congress. That is not correct.” Section 23 directed construction of the bridge “in compliance with all applicable provisions” of Federal-aid law. Evidence revealed during the litigation demonstrated that Federal and local officials acting “under extreme pressure by-passed procedural requirements and ignored substantive protections which had been imposed by Congress,” citing Representative Natcher and the Metro funding. Far from defying the will of Congress, the court “was directing that the will of Congress be obeyed as written.”

The courts had correctly raised questions about the safety of the proposed design of the Three Sisters Bridge. They quoted from Administrator Turner’s March 1970 memorandum stating that the unconventional design and the lack of experience with it in the United States “make the undertaking extremely hazardous and fraught with danger.” They referenced the test of the scale model, citing the report that it had been broken before testing began. They did not believe Congress should mandate construction of a bridge in the Nation’s Capital that was “extremely hazardous and fraught with danger.”

III. THE THREE SISTERS BRIDGE AND OTHER FREEWAYS IN THE DISTRICT OF COLUMBIA ARE OPPOSED BY THE COMMUNITY

The Committee on Public Works had not held hearings on Sections 139 or 140. In fact, the committee had not held hearings on the District freeway impasse since April 1968. During hearings on the Federal-Aid Highway Act of 1972, only one witness, representing the Citizens Association of Georgetown, had testified on the subject and he had urged repeal of Section 23 of the 1968 Act:

The singular and overriding fact that emerged from this committee’s hearings in April, 1968 was the unanimity of civic opposition to the present District of Columbia highway program. Never in the history of this committee has there been such an outpouring of civic protest against a highway program.

The Representatives listed the many groups opposing the measures and recounted the history of protests, beginning with opposition “in Northwest Washington where proposals to destroy Rock Creek Park, Glover-Archbold Park, and Northwest residential neighborhoods evoked unanimous opposition from civic groups in that area.”

In recent years, they said, opposition had centered on the Three Sisters Bridge. They cited the informal referendum in November 1969 during which 84 percent of voters opposed the bridge.

The Representatives concluded their summary of the history of opposition to the freeway network by writing:

The Interstate highway program embodied in section 23 of the Federal-Aid Highway Act of 1968, and particularly the Three Sisters Bridge, has no community support. Without that community support, the Congress should not further interfere in the highway controversy in the District and northern Virginia by enacting section 139 of H.R. 16656.

IV. SECTION 140 WOULD WREAK HAVOC WITH ANY FURTHER INTERSTATE HIGHWAY PLANNING AND CONSTRUCTION IN THE DISTRICT OF COLUMBIA

In repealing the District of Columbia Highway Act of 1893, as amended, for Interstate highways, Section 140 “does not contain anything to replace these provisions, thereby leaving a total void in District laws relating to planning and construction of Interstate highways.” Section 140 “would sweep away all these provisions with respect to Interstate highways – public hearings for affected property owners; public notice to affected property owners from detailed maps and plans; the right of property owners to use their property until condemnation begins.” The Representatives compared this action with repeal of statutes in Iowa, New York, or Oklahoma. “It takes little imagination to foresee that the result will be utter chaos in planning, approving and constructing Interstate highways in Washington, D.C.”

They acknowledged complaints by some Members of Congress about the District’s failure to complete its Interstate mileage. They pointed out, however, that many segments, including the Three Sisters Bridge, “appear to be misconceived.” Some may not be, but Section 140 was “an open invitation to the District government to plan nothing, approve nothing and construct nothing in the foreseeable future.” The provision led to many unanswered questions, such as who was responsible for planning highways in the District of Columbia, were public hearings necessary and, if so, who should hold them, are public notices necessary for Interstate highways, can District officials trespass on private property for survey purposes? “Even those not intimately familiar with the conduct of District government affairs can confidently predict that several years could be consumed in attempting to find answers to those questions.”

The Committee on Public Works “is obviously not equipped by jurisdiction or experience to review and, if necessary, revise the District of Columbia’s highway laws.” Repealing the 1893 District highway law “would be foolhardy and fruitless . . . without replacing them and providing the best possible framework for informed local decision-making.”

In conclusion, they pointed out that Section 139 was “an awkward attempt to assure construction of a project that is overwhelmingly opposed by the communities on both sides of the Potomac River. And by abolishing the District’s highway laws in relation to the Interstate System, Section 140 “would have chaotic consequences for the Nation’s Capital. Both sections “should be deleted from the bill.” [pages 83-93]

With the House preparing to debate the bill, Secretary Volpe released a statement on October 3 covering many of its provisions. Among other views, Secretary Volpe favored a provision that eliminated mileage restrictions on Interstate segments chosen to replace those deleted from the System. He also favored the Muskie-Cooper amendment that would allow funds from a deleted Interstate segment to be shifted to the Federal-aid urban system where they could be used for non-Interstate projects, including rail rapid transit. The provision was not in the House committee bill, but Representative John B. Anderson (R-Il.), Secretary Volpe pointed out, would introduce “a similar amendment providing \$700 million to the Highway Bill.”

He recommended deletion of both provisions on District freeways.

On October 4, a *Post* editorial opposed the Section 139 prohibition on court action regarding the Three Sisters Bridge. The editorial began:

Three Sisters Bridge, the bridge that isn't there but will not go away, is back. And it is back in the worst of all places, on Capitol Hill – more precisely, in the highway bill which has just emerged from the House Public Works Committee.

This was the same committee that, as “bridge-fight aficionados will recall,” had crafted “the peremptory 1968 law” ordering construction of the bridge. It was now “trying again to ram those lanes of freeway across the Potomac between Georgetown and Arlington, by simply bulldozing aside whatever happens to be in the way – including the federal courts, a few federal laws, the Nixon administration, the District government, and the possibility that the area’s transportation needs have changed.”

Virtually everyone else had accepted the ruling by the U.S. Court of Appeals, including the Supreme Court. “But now the Public Works Committee has blasted the interval of calm in a most disruptive, mischievous way, intent on turning back the clock to 1968.” After listing the provisions, the editorial summarized them:

In other words, no more public hearings, no more detailed reviews, no reconsideration on the merits, no enforcement of environmental protection laws, no due process for citizens with legitimate grievances and constitutional rights. Damn the torpedoes, damn the courts, and build the bridge.

The action that the committee was taking reflected the “highly injudicious and gratuitous suggestion by Chief Justice Burger.” Congress had the right to do so, “But the wisest thing for Congress to do about the Three Sisters Bridge would be nothing at all.” Instead, the House had stirred the issue up again. The editorial hoped that the eventual House-Senate conference committee would “bestir themselves to delete this objectionable provision from the highway bill.” [“The Bridge That Isn't There—Again,” *The Washington Post and Times Herald*, October 4, 1972]

During the October 5 consideration of the bill on the House floor, Representative Abzug introduced an amendment striking Section 139 from the bill. She said that “even if the bridge is

the greatest thing that could happen for transportation in this area,” she opposed the provision because it created an exception to NEPA and deprived citizens of the United States “of their right to have access to the courts for redress of their legal grievances.” She cited the many organizations, including the *Post*, that had called for deletion of the provision:

The project has not complied with the law in numerous respects, there is doubt as to whether it is safe, and is opposed by the community. I urge the adoption of my amendment to delete section 139 from this bill.

Representative Broyhill confused the situation by offering “a perfecting amendment” that would add a section (b) stating that:

This section shall take effect upon the final determination of the route of Interstate Highway I-66 from its present terminus in Virginia at I-495 to its connection with a bridge or bridges (presently constructed or to be constructed) across the Potomac River.

The confusion stemmed from whether he was amending Representative Abzug’s amendment of Section 139. Representative Broyhill clarified that he was amending the provision, Section 139, that Representative Abzug was trying to strike from the bill. He said he favored I-66 as well as the Three Sisters Bridge, as did his constituents.

Minority Leader Ford agreed that the language in the bill was strong, but pointed out that “the language has come at the suggestion of a per curiam decision or memorandum from the Chief Justice of the Supreme Court of the United States.” Representative Ford read the statement into the record, then explained that the provision in the 1972 Act was a direct result of the Chief Justice’s suggestion and that the Chief Justice “fully concurs in the proposal by inference, if not directly, in this bill.”

Chairman Natcher spoke in opposition to Representative Abzug’s amendment. After inserting into the record another lengthy recounting of his efforts to achieve a balanced transportation system for the city, he concluded:

The provision set forth above concerning the bridge complies fully with the suggestion made by Chief Justice Burger of the Supreme Court. The amendment should be voted down and the provision in the bill pertaining to the Three Sisters Bridge project and the District of Columbia projects sustained.

Representative Gude, a cosponsor of the Abzug amendment, said “Section 139 must be removed from this legislation.” The question was not support or opposition to the bridge:

Supporters of this amendment are on both sides of that issue. Along these lines I might point out that enactment of this section might well mark the opening of a whole new round of legal actions which could well cause not only great confusion but as a result, further impede the orderly review and construction processes already established. Adoption of this section could well further delay, rather than hasten construction of the Three Sisters Bridge.

He also was concerned that Section 139, if approved, would set “a very clear precedent for future back-door attacks on the carefully constructed processes established by NEPA and enforced by the courts.”

He cited opposition to the bridge and the provision from “virtually every citizen’s association, and conservation organization in the area, as well as from many national conservation groups.” He also quoted from Secretary Volpe’s letter to Chairman Blatnik.

District Delegate Fauntroy spoke in support of the Abzug amendment. Regardless of the merits of the Three Sisters Bridge, Section 139 “would be a blatant denial of basic civil liberties and a corruption of the American political system.” Congress had established Title 23 and other laws that applied to all Federal-aid projects. “Why should not the citizens of the community have an input into the policy determinations that give rise to this sort of project?”

Section 139, he said, would have these negative impacts but “it does not build the bridge. It is prospective. It addresses itself to events that will occur in the future.” As Secretary Volpe had said in his letter, “the section is inapplicable to any preexisting court decision.” Delegate Fauntroy closed his statement by quoting an editorial on WTOP radio:

Barring citizens from asking for redress in the courts, even though their own taxes and their own communities are at stake, would be a corruption of the American system. No bridge – not even the Three Sisters – is so important.

Minority Leader Ford pointed out that the bridge had been in controversy for 6 years. In 1968, after 2 years, Congress said, in essence, “That is enough.” Four years later, “there have been repetitive legal actions taken to stymie the intent of the Congress, culminating in a decision by the Supreme Court in which we had the words of the Chief Justice giving us some guidance as to what we could do to get the bridge built.” He again quoted the Chief Justice’s language, then said, “The Court is telling us we should do something of this kind, as reflected in this section, in order to stop the kind of litigation which has frustrated the Congress and the people of this area for better than 6 years.”

Representative Abzug responded to Minority Leader Ford by saying that after listening to the views of her colleagues, “I am more convinced than ever that this is one of the most scandalous provisions I have ever seen in a piece of legislation.” The principle that citizens could be stripped of their right to petition the courts “does not affect only the Three Sisters Bridge area; the principle affects every single place in the country.”

She also responded directly to Representative Ford:

So far as the comments of Chief Justice Burger are concerned – by the way, they were purely an aside and certainly do not have the force of law – this provision goes way beyond even what he said. Even though he is a judge, his comments may have been injudicious. He did not suggest that we should restrain or should prevent any citizen from doing anything at all as to the enforcement of any provision of law relating to the Three

Sisters Bridge. He did not say we should make it unreviewable by any court. Members are distorting it by constantly saying that is what the Chief Justice said.

In any case, his statement is not a part of the law, and it was not a part of the decision. In fact, the decision sustained the lower [court], which had ruled that the bridge could not be built unless certain conditions were remedied. We must recognize that what is involved here is a complete denial of due process to any citizen who pays taxes in this area or in every other area of this country, and no responsible body, no legislature, could possibly agree to that and believe any words in the Constitution.

She also urged the House to reject Representative Broyhill's amendment to Section 139.

Representative Broyhill again sought to clarify that if the House adopted the Abzug Amendment, but then approved his amendment, Section 139 would be reinstated.

Regardless of the clarification, the House rejected the Broyhill Amendment to Section 139, without a recorded vote. The House then rejected the Abzug amendment, 125 ayes to 173 noes. [Providing for Consideration of H.R. 16656, Federal-Aid Highway Act of 1972, *Congressional Record-House*, October 5, 1972, p. 34130-34141]

Representative Anderson introduced his amendment to incorporate the Senate's Muskie-Cooper amendment allowing cities to transfer Federal-aid urban funds, including funds from deleted Interstate segments that would be transferred to the urban account, for transit, including rail rapid transit. With help from Minority Leader Ford, nearly two-thirds of Republicans opposed the measure, despite President Nixon's support for it. As Ford explained, the measure broke faith with highway users who paid taxes into the Highway Trust Fund for highway purposes only. Moreover, the proposal was a camel's-nose-under-the-tent. "Make one exception and the floodgates will be opened. Do this and someone will say, let's divert funds from the airport trust fund." [page 34069]

The House killed the provision by refusing to consider it when the House parliamentarian ruled that the amendment was not in order. The House voted 200 to 168 not to waive the point of order, thus not voting on the amendment itself but killing it nonetheless.

The House went on to approve the Federal-Aid Highway Act of 1972, including Section 139 (renumbered 140) and 140 (now 141).

The 1972 Senate Bill

The Senate had approved its version of the Federal-Aid Highway Act on September 19, 1972. It did not contain any provisions related directly to the District of Columbia freeways. However, it did contain several controversial provisions that could affect the District. The approved Senate bill included the controversial Muskie-Cooper provision authorizing local officials to use urban system funds for mass transit, including rail transit. The bill also included a measure, promoted by Massachusetts Governor Sargent and Secretary Altshuler, for eliminating urban interstate segments without losing the money that came with them. According to the measure, at the request of a Governor and the local officials concerned, the Secretary could withdraw the

segment from the interstate system and transfer the funds intended for its construction to the urban system. The funds then, under the Muskie-Cooper provision, could be used for any highway or transit project eligible under the category.

In addition, if local governments in an urbanized area established a metropolitan transportation agency with authority to develop and implement transportation plans, the State was to “pass through” the urban system funds attributed to that area based on population for use by the agency in accordance with the 3C planning process.

The Senate bill also contained a highly controversial provision that worried opponents of the remaining District Interstate freeways. Section 147 of the Senate committee bill authorized termination of Federal-aid status for the project to build the U.S. 281/North Expressway through Brackenridge-Olmos Basin Parklands in San Antonio. The State had begun the project with Federal-aid funds, but was blocked by a June 1971 ruling by the U.S. Court of Appeals in New Orleans that required the project to meet the new environmental requirements, including Section 4(f). Texas and San Antonio officials had proposed to proceed without Federal-aid highway funds, but the court declared that the project had proceeded beyond the point of no return on Federal-aid status.

Senator Lloyd Bentsen (D-Tx.), a member of the Committee on Public Works, and Senator John Tower (R-Tx) proposed the measure to remove Federal-aid status from the freeway so it could be built without complying with Section 4(f) or other inhibiting Federal laws and regulations. Senator James L. Buckley (Conservative Party, NY), a chief opponent of their amendment, was one of four Senators who had voted against the amendment in committee. He said at the time that he believed Congress “should not become involved in weighing the pros and cons” of such disputes. “This has occurred once in the past, in the case of the Three Sisters Bridge in Washington, D.C., with unfortunate consequences.” As Fred Barnes explained in the *Star*:

The North Expressway case is similar in some respects to the two most publicized highway disputes in the Washington area, those involving the Three Sisters Bridge and Interstate Route 66.

In the 1970 highway bill, Congress ordered that construction of the bridge should begin within 30 days. Construction did begin, but it was later halted by a court order. Whether the Three Sisters Bridge will ever be built is unclear today.

“If Congress establishes the president [sic] of exempting specific projects from federal laws,” Buckley said, “the usefulness of those laws will be whittled away.” [Barnes, Fred, “Freeway Foes See Texas Precedent,” *The Evening Star and Daily News*, August 29, 1972]

During Senate debate on the bill, Section 147 was one of the most controversial provisions, but on September 13, 1972, the Senate defeated the Buckley amendment to delete Section 147, by a vote of 24 ayes to 49 noes.

As the House and Senate designated members to participate in the conference committee to resolve differences between the two bills, leaders of the House Committee on Public Works were

determined to delete any Senate provision that would allow the use of Highway Trust Fund revenue for nonhighway transit.

(For a detailed account of the history of the Federal-Aid Highway Act of 1972, including the debate on the San Antonio provision, see “Busting the Trust: Unravelling the Highway Trust Fund 1968-1978” on this Web site.)

The Conference Goes Down to the Wire

With the House determined to hold its ground on the integrity of the Highway Trust Fund, and the Senate determined to “bust the trust” for rail rapid transit, the conference discussions were among the most contentious participants could recall. While conferees grew increasingly frustrated with each other’s refusal to compromise, developments continued outside the Congress.

The Baltimore Sun had reported that the Maryland Department of Transportation had begun on August 3, 1972, to study alternatives to construction of the I-95 extension through Prince George’s County to the District line. The department had formed a Study Steering Committee consisting of 60 citizens, elected officials, business and environmental groups, and agency representatives. The committee was using \$600,000 in Federal and State funds to finance the study.

Hal Kassoff, who was directing the study for MSHA, said:

It is the first study to consolidate highways and transit together, and it is a departure in terms of making an intensive effort to involve the community in a fair way.

He said the alternatives to be studied included “the possibility of building I-95, but range beyond it to transit improvements,” as well as not building I-95. He predicted that the study would be completed in the spring 1973.

He added that planning for the 6-mile extension of I-95 had been halted after the District’s city council and Mayor Washington recommended that the I-95 extension from New York Avenue to the Maryland line not be built. [“Road Unit Opens Study on I-95,” *The Baltimore Sun*, August 3, 1972]

On the day the House voted for its version of the Federal-Aid Highway Act of 1972, the *Sun* reported that the Maryland Department of Transportation was “quietly planning a system of highway segments to substitute for controversial interstate highways” in the Baltimore and Washington areas. In an interview, Secretary Hughes said the main reason for devising alternative routes was to retain the more than \$800 million authorized for the controversial current routings. The routes in doubt were I-70S and I-95 inside the Capital Beltway, totaling 8.5 miles, and much of the Baltimore area’s remaining 22.5 mile expressway system.

If these routes were not built, the State would lose the funds unless it had alternative segments ready for Interstate designation:

Mr. Hughes said that a 5-mile section of Route 46 from I-95 to Friendship Airport, a 19-mile segment of the Arundel expressway from the Baltimore Beltway to Route 50 outside Annapolis and a 20-mile segment of Route 50 itself from Washington to Annapolis were among the proposals his department was considering to qualify for federal interstate funds

“It looks like I-70S is not going to go,” the transportation secretary said yesterday, with regard to the first of the three controversial highways. “It represents \$100 million in interstate funds. We could do a lot with that. We could build the whole Arundel expressway.”

The second disputed road, I-95 into Washington, is the subject of a study that is unique in Maryland transportation planning [It] will determine whether a road, a rail line or nothing should be built in the corridor. [Dilts, James D., “Substitute Highways Being Planned by State to Preserve U.S. Road Funds,” *The Baltimore Sun*, October 5, 1972]

On October 10, WMATA entered the bond market, offering \$225 million in bonds at an interest rate of 7.3 percent. Merrill Lynch, Pierce, Fenner and Smith, heading the underwriters, reported the public sale, but found the public reception cooler than expected. Investors apparently wanted a return between 7.4 and 7.45 percent. [Jones, William H., “Investors Shy Away from Metro Bonds,” *The Washington Post and Times Herald*, October 12, 1972]

On October 13, local newspapers reported that House-Senate conferees were close to agreeing on the Federal-Aid Highway Act of 1972. The main issue was the Muskie-Cooper amendment opening the Highway Trust Fund to rail rapid transit. Chairman Kluczynski offered a compromise. If Senate conferees would drop the Muskie-Cooper amendment, House conferees would not only support a provision introduced by Senator Harrison Williams providing \$8 billion over 3 years for transit from the general Treasury, but would increase it.

That was the main obstacle to agreement, but the provision on the Three Sisters Bridge also was an obstacle. “Senate conferees,” the *Star* reported, “are prepared to see the entire highway bill go down the drain this year rather than yield to the House on several crucial issues, including the bridge.” [Angle, Martha, “3 Sisters Bridge Issue Stalls Highway Bill,” *The Washington Star-News*, October 13, 1972; Braestrup, Peter, “Hill Nears Agreement On Road Act,” *The Washington Post and Times Herald*, October 13, 1972]

The conferees were working against a deadline of October 18 when Congress would adjourn so all Representatives and one-third of the Senators could join the presidential candidates on the campaign trail for the November election. Despite predictions that the conference would break down, conferees reached surprise agreement on October 18. They agreed on a 1-year extension of the Federal-aid highway and safety programs to prevent States from running out of Federal-aid highway funds while the 93rd Congress addressed the controversial issues the conferees could not resolve. To please the House conferees, the bill dropped the Senate provision allowing use of urban system funds for rail rapid transit. To please the Senators, the bill dropped the House’s priority primary system funds, which many considered an extension of the Interstate System, but directed the Secretary to study the matter and report to Congress.

The Interstate withdrawal and substitution provision of the Senate bill that allowed remaining funds to be transferred to the urban system did not survive the conference. However, the bill included \$3 billion for the UMTA capital program, with a Federal share of 80 percent, and \$100 million for operating subsidies the first year plus \$300 million the following year, all out of the general Treasury. The Highway Trust Fund was not breached, but the Nixon Administration had made clear it would veto any bill that funded operating subsidies. [The conference report can be found at *Congressional Record-House*, October 18, 1972, pages 37115-37133]

The provision on the Three Sisters Bridge had been dropped but the exemption of the District's Interstate System from the 1893 District law, as amended, survived into the final bill, as did the provision allowing Texas to repay Federal-aid funds used on San Antonio's North Expressway so construction could begin as a State-funded project.

The Senate approved the bill by voice vote that evening before adjourning for the year.

In the House, consideration of the Federal-aid bill was interrupted for a vote on another bill.

When debate returned to the Federal-Aid Highway Act of 1972, Representative Myers raised a point of order that a quorum was not present. When a roll call was ordered, only 156 Members of the House were present. In the absence of a quorum, Speaker Albert adjourned the House *sine die*, without completing action on the Federal-Aid Highway Act of 1972. The legislation was dead. [*Congressional Record-House*, October 18, 1972, pages 37199-37200]

Representative Myers did not explain his action at the time or in coming days. The *Post* reported:

Myers was unreachable last night. But Republican House sources said he was angry because the bill no longer contained a House-passed provision barring any court interference with construction of the Three Sisters bridge, now stalled by environmental lawsuits.

House Minority Leader Gerald Ford (R-Mich.) later said he had no part in instigating the Myers move. Other GOP members said White House lobbyists had no hand in it.

However, several administration lobbyists spoke earlier in the day of trying to persuade a congressman or senator to kill the measure, to save the President from a politically painful veto aimed at the mass transit subsidies provision. [Braestrup, Peter, "Highway Bill Dies in Congress," *The Washington Post and Times Herald*, October 19, 1972]

This explanation appeared likely because Republicans had refused to respond to the roll call, thus killing the bill.

(Representative Myers had not addressed the House during debate on the Abzug amendment, but supported the Three Sisters Bridge during debate earlier in the year on the District of Columbia Appropriations Act, 1973. He voted against Representative Abzug's measure.)

Despite these developments, the U.S. Department of Transportation was still considering the Three Sisters Bridge in response to Section 23 of the Federal-Aid Highway Act of 1968.

Assistant Secretary Hirten confirmed that the study was underway, but added that Secretary Volpe had not yet decided whether to proceed with the project as part of the Interstate System.

Jack Eisen wrote:

The highway bill died in the final days of Congress last week in a disagreement between House and Senate conferees over Three Sisters [sic] and the use of highway money to finance rapid transit nationally.

Hirten said the potential schedule for Three Sisters construction is part of an effort to resolve the fate of all pending freeway projects in the nation's capital. "We're trying not to the prejudice [Volpe's decision], but to coordinate," Hirten asserted.

If Volpe approves the bridge project in the coming several weeks, Hirten said it would be reviewed by a committee on historic preservation in December. Public hearings on the location and design of the bridge would be held in January. The National Capital Planning Commission, now officially opposed to the bridge, would review the plans in March.

That would permit the award of a construction contract by August and the opening of the bridge to traffic early in 1975, Hirten said. [Eisen, Jack, "Three Sisters Span is Still Considered by Federal Agency," *The Washington Post and Times Herald*, October 24, 1972]

According to an editorial in the *Star*, this report of Department of Transportation activity "created about as much stir around here as a pebble tossed into the Atlantic, for understandable reasons." Nevertheless, the editors hoped that reports that Secretary Volpe would soon make a decision were true. "If such efforts by DOT and other agencies lead only to further obstructions, and more unconscionable delay, no one will have to wait long to find out." President Nixon had "on numerous occasions" supported the bridge. "It is time those pledges were honored."

Moreover, Secretary Volpe's decision would affect more than the Three Sisters Bridge:

No final resolution of a Georgetown waterfront redevelopment plan can be reached, for example, until the fate of the bridge is decided once and for all. Nor can the Interior Department's Palisades Parkway finally be designed. And those plans, in turn, involve the reconstruction of the C&O Canal, which ought to proceed as rapidly as possible.

Whatever the decision would be, "the administration's clear responsibility is to end the stalemate." ["Volpe and the Bridge," *The Washington Star-News*, October 23, 1972]

Whatever Secretary Volpe might decide, anti-highway leaders were certain that the House Committee on Public Works would continue their efforts to force the District to build the bridge in the 93rd Congress. Peter Craig told reporters, "The bridge has utterly no justification," arguing that every study in the past 15 years demonstrated that it was not needed. Sammie Abbott said:

We view the House action on the highway bill as the handwriting on the wall for the highway lobby. The use of the Highway bill for mass transit funding is a certainty for the next session. [Griffin, James, "3 Sisters Span Left in Limbo," *The Washington Star-News*, October 19, 1972]

Problems Building

Secretary Volpe was in Lexington, Virginia, on October 26 to address the 25th Annual Virginia Highway Conference. Jack Eisen reported:

Before making his formal speech, Volpe told some of the road builders who infiltrated a press conference that it would be to their benefit to support the transit plan.

“The fewer miles of expensive urban highway you build,” Volpe asserted, “the more miles of less expensive rural highways you will get.”

If more money had been spent in past years on transit in the Washington area, Volpe said, it may have been unnecessary to spend \$56 million on the complex “mixing bowl” interchange on Shirley Highway (Int. 95) near the Pentagon.

In his speech, Secretary Volpe defended the plan to open the Highway Trust Fund to transit. Governor Holton, the next speaker, altered his prepared speech to endorse Secretary Volpe’s comments. The governor said that using highway funds for transit “may one day soon be the prevailing view. He challenged the road builders “to use your considerable influence to get a better balance” between the private automobile and public transit.

Commissioner Fugate also addressed the group, but avoided the controversial topic of highways versus transit. Instead, he pointed out that Virginia would be one of the hardest hit States if, contrary to expectations, Congress did not complete work on a new Federal-Aid Highway Act before the start of FY 1974 on July 1, 1973. Virginia was using Federal-aid highway funds as fast as they became available, and did not have a cushion to sustain the program if funds were cut off on July 1. [Eisen, Jack, “Change In Road Aid Seen,” *The Washington Post and Times Herald*, October 27, 1972]

Fugate was well respected in highway circles. As president of AASHO in 1970, he had testified before the House and Senate Committees on Public Works as they prepared the Federal-Aid Highway Act of 1970. In Virginia, however, his reputation depended on which part of the State was polled, as reflected in this *Post* headline of a Fugate profile on October 19, 1972:

Fugate is Ogre in Northern Virginia But a Hero Elsewhere in the State

The profile began:

In the Virginia suburbs of Washington, where major state officials from distant Richmond are rarely seen, heard or recognized, Highway Commissioner Douglas B. Fugate has become something of a celebrity.

A “Douglas B. Fugate Balloon-Busting Contest” at a recent Earth Day festival drew hundreds of Arlington residents eagerly aiming darts at bright-colored symbols of the commissioner and the proposed I-66 highway he wants to build through their neighborhoods.

A Reston newspaper suggested:

He – and someone should remind him of this after getting his attention with a two-by-four – is a public servant, not a dictator of public policies.

At 66, “the short, wiry civil engineer” had been with the highway agency since 1927 and had no plan to retire:

The drive and impatience that have made him one of the most active and successful highway officials in the country have at times only worsened his relations with environmentalists and elected officials north of Richmond. The idea of not building a road seems foreign to him.

In Emilia Govan’s opinion, his popularity in other parts of the State had produced “a habit in him of doing whatever he feels like doing, without anybody stopping him.”

FHWA’s top Virginia official, Harold King, praised Fugate for having one of the best records in the country for immediate use of available funds. This rapid response to funds was one of the reasons for his lack of popularity in northern Virginia, at least among those who oppose Interstate highways and believe rail rapid transit and exclusive bus lanes were the answer to the area’s traffic congestion:

When Fugate pushed for a beginning of work on I-66, I-266, and I-595 in Northern Virginia, the antihighway ranks solidified. When, despite a court order blocking construction of I-66 in Arlington, Fugate announced plans to go ahead with an adjoining two-mile strip in Fairfax, antihighway groups sprang up in Fairfax and Falls Church. When Fugate suggested closing the highly successful exclusive bus lanes on I-95, local bus commuters became apoplectic.

Fugate has since backed off from his earlier stands on the two-mile section of I-66 and the I-95 bus lanes, but he maintains that in the case of I-66, first planned in 1958, “if we’d had the money and built it 10 years ago when we had the present plan, there would have been no opposition.”

The *Post* quoted from the “much-heralded speech” in Arlington during which he came down on critics, saying they were “bent on obstruction for the sake of obstruction alone,” among several choice critiques. Mrs. Govan said, “I get the feeling that he’s enjoying the battle with us, that he’s relishing it.” [Mathews, Jay, “Fugate is Ogre in Northern Virginia But a Hero Elsewhere in the State,” *The Washington Post and Times Herald*, October 19, 1972]

Earlier in the year, WMATA was told that construction of Metro in the I-66 right-of-way would be less costly if the freeway were not built. In July, Fugate dashed WMATA’s hopes. In an interview with Jack Eisen, Fugate explained that the State had condemned the land for the right-of-way by certifying that it was needed for highway purposes. A State law was then approved allowing construction of Metro in the median of I-66. “If there is no highway,” Fugate told Eisen, “there is no median As I interpret the law, I don’t see how we could use the property for transit It would require a pretty drastic change in the law.” He added that the law

requires that if the State did not use the right-of-way for I-66, it should be sold back to its original owners.

WMATA officials had hoped to begin construction of the line in 1974, with trains beginning to run in 1977. The delay caused by the court order blocking advance of I-66 made that schedule unlikely. Deputy General Manager Quenstedt, having discussed the matter with Fugate, told Eisen, "What this seemed to do is to lock our construction schedule into the fate of I-66. Of course, if the decision ultimately is made not to build the road, then we would promptly file our own condemnation papers." WMATA could not do so as long as the State owned the right-of-way. [Eisen, Jack, "Va. Metro Path Hits Blockage," *The Washington Post and Times Herald*, July 23, 1972]

On November 30, WMATA asked Virginia Attorney General Andrew P. Miller if Metro could be built in the median of proposed I-66 while the project was in the courts:

The action by the Washington Metropolitan Area Transit Authority yesterday followed the disclosure that Joseph L. Fisher, board chairman, has urged Virginia Gov. Linwood Holton to ask the General Assembly to pass special legislation during the next session to permit Metro to build its line along the six miles of uncompleted I-66.

With I-66 under court-ordered studies that could take up to 18 months, Metro was concerned "that the delays in constructing the highway also may delay the proposed opening of the Metro system in April 1977."

The *Post*, reporting on these developments, added that "at least one ecology group," ACT, supported Metro's proposal to begin construction regardless of the fate of I-66. Mrs. Govan said that ACT supported Metro construction despite the court fight over the highway. [Griffin, James, "Metro Requests Ruling on Rail Line on I-66 Site," *The Washington Star-News*, December 1, 1972]

WMATA had other problems to address. In early November, WMATA had revised its schedule for Metro service. It still intended to open the initial 4.5-mile section in downtown by December 1974 and to complete the 98-mile system in December 1979, as previously announced. However, service on suburban lines was now to be delayed by up to 2 years, as Eisen summarized:

Train service to Takoma Park has been put back from 1974 until 1976; to the Bethesda area from 1976 until 1978; to Alexandria and to the New Carrollton area of Prince George's County from 1975 until 1977, and to the Falls Church area from 1976 until 1977

A new construction and operations schedule has been anticipated for two years, but the extent of some changes surprised Metro board members.

The delays were blamed on "past financial problems, construction strikes, flooding of work sites during tropical storm Agnes in June, and both past and present planning and land-acquisition problems." Disagreements with local jurisdictions on stations and routes also

delayed plans. As one Metro official told the *Star*'s James Griffin, "They're trying to re-invent the wheel":

Sixty of Metro's planned 98 miles of track and half its 86 stations will be in Virginia and Maryland. Route alignment hearings, station design hearings, "impact reviews," formal and informal, are cropping up all over the place, and for many suburbanites they are like too-early blooms in a spring that was thought of as far away.

And always, the casual observer can hear, "Fine, fine, but not in my backyard."

Griffin found that race was one of the factors delaying the suburban lines:

All of this has much to do with Metro, despite official pronouncements that questions of race do not enter into this oft-touted largest construction project the world has ever seen. Indications so far are that Metro will merely reinforce the situation which exists today –

with a more than 70 percent black population in the District and the only exodus going to Prince Georges County which has substantially lower-cost housing than either Montgomery County or those of northern Virginia.

"The suburbs will say to the blacks, in effect, that blacks can get out here easily enough via Metro, so you don't really have to live out here," says one northern Virginia official. "It may perpetuate the ghetto situation."

The officials pointed out that it was unlikely many blacks would move to Montgomery County or the northern Virginia counties because of the prohibitively high cost of homes. He said the recent years of the black exodus from Anacostia in D.C. into Prince Georges would probably expand.

Griffin also found a fear of reverse commutes by black District residents to jobs in the suburbs. "He reported that, "white workers may feel threatened by a diminishing job market there, although census figures seem to indicate that jobs in suburbia are increasing at such a rate that there may be jobs still going begging." [Eisen, Jack, "Metro Sees 2-Year Delay In Suburbs," *The Washington Post and Times Herald*, November 3, 1972; Griffin, James, "Metro Runs Into Trouble in Suburbs," *The Washington Star-News*, November 12, 1972]

WMATA's Bus Takeover

As WMATA dealt with unexpected costs, delays, and other challenges, D.C. Transit Systems was experiencing problems of its own, as Professor Schrag explained:

According to the original plans, Chalk's buses were none of WMATA's business. The compact prohibited the Authority from operating a bus service and even required it to contract out the operation of its trains – a provision added in response to the union uproar over the 1963 bill. So at first, the Authority swatted Chalk away. By the late 1960s, however, D.C. Transit's finances began to melt, and WMATA had to consider a takeover more seriously. Metro needed a healthy, attractive bus system to deliver commuters to

rail stations, but a bus takeover would cloud the Authority's finances at a vulnerable time. Caught between these imperatives, the Authority awaited congressional instruction.

The waiting lasted until the spring of 1970 when District of Columbia leaders, whose constituents made up the vast majority of bus riders, pushed to give the Authority the ability to operate both buses and rail service and, if necessary, to acquire private transit companies

By then Chalk was desperate. As one observer put it, "declining ridership, increasing fares, and widespread deterioration of service combine to produce unmistakable symptoms of impending death." [Schrag, pages 175-176]

On January 17, 1972, Secretary Volpe suggested combining the Metro rail line and the D.C. bus system under a single authority. "I think the . . . interests of Washington would be best served if there were one operation. It could be private or public." [Dash, Leon, "Volpe Backs Central Agency To Direct Metro, Bus Firms," *The Washington Post and Times Herald*, January 18, 1972]

The possibility that WMATA would take over the bus system had been building for years. The perennial battles over fare increases for bus service had taken their toll on the company's revenues and sustainability, as Jack Eisen summarized in an April 6 *Post* article:

The D.C. Transit System is running on a shoestring and should take steps to add \$12 million in investment capital, a financial consultant recommends.

The bus company also should sell at least \$3.6 million worth of idle real estate and collect another \$3 million it has lent to related firms, using this money to slash its debts, consultant Pasquale A. Loconto reported to the Washington Metropolitan Area Transit Commission.

The commission, the bus regulator, had sought the report from Loconto, of the New York firm of Touche Ross and Company, while considering the company's request to increase the bus fare from 40 cents, the level since 1970, to 50 cents. Loconto found that O. Roy Chalk had invested only \$500,000 when he purchased the company in 1956, and had not invested further funds since then. Stockholders were the principal investors. Debt now exceeded their equity by the sum of \$18 of debt per \$1 of investment. For that reason, Loconto's report called for reducing debt levels. The company, in his view, was relying too heavily on short-term loans to finance its long-term debt. He found that loan repayments and interest were costing the company \$6.7 million per year.

The company had not responded to that suggestion at press time, but a consultant to the firm, John Curtin, said, it would be "foolish . . . to expect any informed investor to put any money into a business like this." [Eisen, Jack, "Transit Firm Said to Need More Capital," *The Washington Post and Times Herald*, April 6, 1972]

With the commission set to decide on the fare increase by May 26, Deputy Mayor Watt and Chairman Hahn testified before Chairman Cabell's subcommittee of the House District

Committee. Speaking on behalf of City Hall and the White House, Watt and Hahn proposed a way to avoid a fare increase. The city would use Federal grants to buy the company from Chalk at an estimated cost of \$18 million for D.C. Transit System's 1,058 buses, then lease the buses back to the company to operate for a token \$1 a year for maintenance and operation. Hahn suggested that the company would use the money to retire indebtedness on equipment and to

improve service. As Eisen explained:

The proposal would relieve the company of about \$3 million in depreciation and related costs of the buses, which could be subtracted from the company's operating expenses.

With these bus costs removed, the company would then receive a subsidy to keep its basic city fare at 40 cents for the present.

The proposal was presented as an interim measure to keep the buses running, at the current fare, until public ownership of the company could be achieved.

Chairman Cabell was skeptical. He said, "we've been stopgapping for a long time," suggesting the time for a permanent solution had arrived. He also questioned whether the company would perform as well as Watt and Hahn implied. "There's a lot of difference between feeding your own horse and a horse that's stabled in your barn." [Eisen, Jack, "City Rein Urged for Bus Lines," *The Washington Post and Times Herald*, April 14, 1972]

With the company expected to lose \$3.3 million if the commission did not approve the fare increase, the commission appealed to Congress for a stopgap \$3 million subsidy for D.C. Transit System. With that subsidy, the commission could leave the fare at 40 cents.

On May 8, the House rejected the subsidy contained in H.R. 14718 by a vote of 50 to 270, effectively killing the measure. According to an account in the *Post*, the vote came after "an emotional debate of nearly two hours," even though the outcome was never in doubt.

Minority Leader Ford set the tone by arguing that Washingtonians who had received a sharp increase in per capita income could afford the higher fare. Delegate Fauntroy argued for fare-free bus service, but after he spoke, "not one word [was] spoken in favor of the bill."

Representative John E. Moss (D-Ca.) labeled the company "this strange miniature Penn Central here in D.C., with valuable real estate benefitting only its owners."

Chairman McMillan apologized for bringing the bill to the House floor, saying the committee did so only at the commission's request.

Chairman Cabell thought the subsidy might actually work, but said of Chalk, "If I ever saw a sweetheart contract, he's got it. But it exists . . . [and after the subsidy] something more permanent and . . . more equitable has got to be worked out." He asserted the subsidy was needed on an emergency basis, but Representative Conte responded that a subsidy would be like "throwing corn down a rat hole." [Green, Stephen, and Eisen, Jack, "House Kills Subsidy for

D.C. Transit,” *The Washington Post and Times Herald*, May 9, 1972; District of Columbia Bus Subsidy, *Congressional Record-House*, May 8, 1972, pages 16151-16167]

On May 19, the commission made the front pages of the *Post* and *Star* by rejecting the fare increase and adding conditions before it would reconsider. As Eisen pointed out:

It was the first time since 1966 – when the commission first warned of the company’s eroding financial foundation – that the commission turned down a D.C. Transit application for a rise in its basic city fare. However, approved increases usually have been less than the company wanted.

The commission agreed that the cost of operating the system was higher by over \$3 million than the fares collected. However, Commission Chairman Jeremiah C. Water said in a statement:

We found that the financial condition of the company is extremely unstable, posing the possibility that the company will not be able to provide the full service required of it.

We also found that a fare increase alone will not solve the financial problems. In these circumstances, we felt that the company should be required to correct the condition of financial instability before we would ask the bus rider to pay higher fares.

The specific conditions we have set is [sic] that D.C. Transit must produce \$6.4 million in funds from sources other than the fare box before we will agree to authorize higher revenue from the bus rider.

The commission wanted the company to use the \$6.4 million to reduce the company’s debt (\$4 million) and to purchase 85 new buses (\$2.4 million). To raise the funds, the commission suggested that D.C. Transit Systems sell idle real estate, insist that affiliated companies repay loans, and seek additional capital from stockholders:

If these funds are produced and applied in the manner we have indicated within 90 days, we will then proceed to the question of whether and in what amount the fare should be increased. If the funds are not so applied in that time, the record in the fare case will be closed.

The commission warned, “What we see in the future if we increase the fare and do nothing more is continued instability and a deterioration in the level and quality of service.” The company had exhibited “less than efficient management” in its debt buildup. As a result, a fare increase would be “unjust and unreasonable.”

The commission described the congressional rejection of the subsidy bill as “a failure of government to respond to the needs of the community. Until that failure is remedied, the spectre of high bus fares and their destructive impact will be with us.”

Waterman denied that the commission’s actions were an attempt to force consideration of public ownership. He added, however, that “my feeling is that eventual public ownership is probably the only answer over the long term.” [Barnes, Fred, “Bus Fare Rise Is Rejected,” *The*

Washington Star-News, May 19, 1972; Eisen, Jack, “Bus Line Is Denied Fare Rise,” *The Washington Post and Times Herald*, May 20, 1972]

Editors at the *Star* and *Post* were surprised and pleased by the commission’s decision. The *Star* editorial began:

It may be remembered as the local surprise of the year. No one we know of expected the Washington Metropolitan Area Transit Commission to sock D.C. Transit as hard as it did last Friday, in denying the bus fare increases.

Such a total rejection is unparalleled in the commission’s history, but there’s another first in this action that is even more significant: The WMATC set severe preconditions that must be met before it will even consider the fare hikes again.

The commission deserved applause for its action, but “everything is still up in the air.” Whether D.C. Transit System could raise the funds within the time the commission set was unclear, but the decision provided “even more reason for congressional haste to authorize public ownership of the company.” Legislation for that purpose had passed the Senate 2 years earlier, but never received a vote in the House. Current bills remained on hold in the House District Committee. “We hope that this period in which a fare hike is being withheld will be used by the committee to act affirmatively on that bill, and hurry it along for floor action. [“D.C. Transit on the Spot,” *The Washington Star-News*, May 24, 1972]

The *Post* editorial began by pointing out that “the whole town is elated” that O. Roy Chalk did not get a fare increase:

For the first time in years, the authorities didn’t just wring their hands and nod approval to a fare boost; they said no to the bus company, and threw in a stiff lecture on finances, corporate management and the public interest. The surprise is worth savoring.

While uncertainties remained, what was “clearer and more urgent than ever now is the need to end this devastating arrangement by which Mr. Chalk always winds up with his fare increases: Congress should authorize public ownership of the bus lines.” Only if Congress met this issue head on “will the Washington area be able to concentrate on the business of providing efficient public transportation – instead of having to wrestle with stop-gap measures to bail out a failing system.” [“Score One for the Bus Riders,” *The Washington Post and Times Herald*, May 26, 1972]

Initially, D.C. Transit System threatened to implement the fare increase on May 27 in spite of the commission’s action. It decided not to do so in view of pending court action on an injunction. [Barnes, Fred, “Bus Fare Raise Delayed Temporarily,” *The Washington Star-News*, May 27, 1972]

While the focus was on the bill backing WMATA revenue bonds, WMATA and the White House were not eager to bring up yet another transit bill. However, the Nixon Administration strongly boosted the concept of public ownership on July 26 when Secretary Volpe wrote to Chairman Cabell to call on Congress to “move forward rapidly to prevent any further

deterioration in the area bus system.” [Eisen, Jack, “Nixon Moves To Take Over Area Buses,” *The Washington Post and Times Herald*, July 27, 1972]

Chairman Cabell introduced a bill on August 1. The House and Senate Subcommittees on Business, Commerce, and Fiscal Affairs of the District committees held joint hearings on the measure on August 14-16. [Bus Systems Acquisition by WMATA, Joint Hearings Before the Committee on The District of Columbia of the United States Senate and the Subcommittee on Business, Commerce, and Fiscal Affairs of the committee on the District of Columbia, House of Representatives, 92d Congress, 2d Session, on H.R. HR.16119, August 14, 15, and 16, 1972]

Senator Mathias introduced a takeover bill on September 7, followed by a hearing on September 25. [Federal Payment For Additional Rapid Transit Facilities, Hearing Before the Committee on the District of Columbia, United States Senate, 92d congress, 2d Session, on S. 3966, September 25, 1972]

During the joint hearing, Chalk estimated the sale value of D.C. Transit Systems to be \$75 million (\$40 million to \$50 million for buses and other equipment, plus \$25 million for garages and other real estate). WMATA estimated the value to be around \$45 million. While the discrepancy was likely to lead to difficult negotiations if Congress authorized WMATA to condemn and acquire the property, the important point was that Chalk seemed to accept the inevitable loss of his company. [Eisen, Jack, “Chalk Asking \$75 Million For Transit,” *The Washington Post and Times Herald*, August 16, 1972]

Over the next few weeks, the bus acquisition bill and a District home rule bill became entangled in congressional infighting. On October 12, the House defeated the bus bill, 226 to 129, short by 11 votes of the two-thirds majority needed because the bill was under suspension of the rules that prohibit amendments and limit debate. The unpopularity of Chalk was cited as a primary reason for the shortfall. The Senate approved the bill on October 14 by a unanimous voice vote. [National Capital Transit Act of 1972, *Congressional Record-House*, October 11, 1972, pages 35021-35031; National Capital Transit Act of 1972, *Congressional Record-Senate*, October 14, 1972, pages 36200-36204]

On October 14, the House reversed itself and approved the bill, 184 to 60, sending it to the White House for signature. After the Senate had passed its bill, supporters in the House convinced Speaker Albert to bring the Senate bill to the House floor for a vote. White House lobbyists joined with Representatives Broyhill and Gude to convince their colleagues to approve the Senate bill. Representative Fraser summarized what Senator Mathias had said earlier in the day. If Congress did not approve the bill, it would return in January to face “a real disaster . . . a total collapse of bus transportation this area.” [Bus Systems Acquisition by WMATA, *Congressional Record-House*, October 14, 1972, pages 36427-36431]

President Nixon approved the National Capital Area Transit Act of 1972 on October 21 (P.L. 92-517). He issued a statement on his signing of this bill and five other District bills. About the transit legislation, he said:

I am especially pleased to approve the National Capital Area Transit Act of 1972. Nothing is more essential in making a city livable than a regional transportation system which enables people to move easily among their homes, their places of employment, their leisure time pursuits and tourist attractions. During the last 4 years, Washington has taken long strides toward the development of such a system. Construction of METRO rapid rail transit system is progressing well [sic], as is the improvement of the regional highway system. The transit act signed today is a necessary complement to these steps. It opens the way for acquisition of the area's four major bus companies by the Washington Metropolitan Area Transit Authority, and thus for the efficient coordination of bus and subway services when METRO begins operation in 1974.

WMATA planned to take over operation of District Transit System and the three other private bus companies in January 1973. In doing so, WMATA expected to experience large deficits that would require growing government subsidies in coming years. It expected to lose the \$3 million that the bus company had anticipated losing, but projected that annual loss to be \$13.6 million in 1977. Under the circumstances, subsidies were the only way to retain the current fares.

Secretary Volpe and Chairman Fisher had testified before the joint hearing of the Senate and House District Committees on August 14 that subsidies would not be needed. Eisen reported:

At one point, Volpe . . . declared: "I would say that if they [Metro] gave [improved bus] service . . . that they could achieve possibly a break-even point. If there were a deficit, it would be very small"

Rep. Thomas G. Abernethy (D-Miss.) asked Volpe "if there is any intention or design set forth in this legislation which would authorize the subsidizing of fares either by the District government or the area government or the federal government?"

"There is not, sir," Volpe replied.

Abernethy pressed on. "There is none, and such is not contemplated?"

"No, sir," Volpe said.

Later that day, Abernethy asked Fisher . . . "whether or not a subsidy would be necessary to successfully operate this [bus] facility?"

Fisher responded: "It is our intention to operate the buses and integrate them with Metro [the subway] as Metro comes in without subsidy."

By September, when WMATA submitted its preliminary application to UMTA for \$70.8 million to acquire the lines, the authority was projecting operating losses. However, General Graham anticipated that the deficits would decline when major portions of the 98-mile Metro system opened in the late 1970s. The combined rail-bus network would then be able to pay for itself from fares, according to Graham. [Eisen, Jack, "Metro Sees Bus Deficits, Big Subsidies," *The Washington Post and Times Herald*, November 16, 1972]

Although the plan had widespread public support, many observers worried that WMATA would face the same problems that had proven the downfall of the private companies. WMATA held a week-long series of public hearings throughout the region in early December, during which citizens and public agencies expressed what Eisen called “deep concern that the Metro subway agency may not do enough to meet community needs.”

Several witnesses, including former City Council Chairman Hechinger and Sammie Abbott, argued that WMATA should not charge any bus or subway fare or should reduce fares. The WMATA board should be solely responsible for determining fares. For now, the board planned to retain current bus fares. [Eisen, Jack, “Public Support of Bus Takeover Mixed With Concern Over Service,” *The Washington Post and Times Herald*, December 9, 1972]

After the Election

In the presidential election, President Nixon scored a landslide victory over Senator George McGovern of South Dakota to win a second term. In the wake of his victory, he asked his entire Cabinet to submit their resignations. Initially, Secretary Volpe seemed to have escaped the purge, but instead was offered the post of Ambassador to Italy. The shift was announced on December 7.

Secretary Volpe had been reluctant to accept the new position, despite the fact that it was a dream assignment for a man who was proud of his family’s Italian heritage. He felt he had unfinished business as Secretary of Transportation. He was proud that during his term, he had overseen efforts to achieve “real balance and environmental parity” among the modes. His biggest disappointment, he said, was that he had not secured legislation that would open the Highway Trust Fund to rail rapid transit. [Morison, Robert F., “Lack of Urban Transit Action Dismays Volpe,” *The Journal of Commerce*, December 20, 1972]

His successor would be Claude S. Brinegar, a 45-year old senior vice president of Los Angeles-based Union Oil Company. (His name rhymed with “vinegar.”) He had never served in government and had never met President Nixon before their interview about the position. He had contributed only \$50 to the reelection campaign. [“Charlton, Linda, “Oilman Will Get Transportation Post,” *The New York Times*, December 8, 1972]

According to a news account, colleagues described Brinegar as a “precise, able administrator who doesn’t waste words and is an expert at statistics.” He was the “type of administrator who must find things out for himself.” One colleague said, “With most people, you can give them a mathematical equation and they’ll use it, but Claude’s got to derive the equation before he’ll use it.” An engineering colleague said, “He’s considered one of the extremely good statisticians. He handles statistical analysis better than anyone I’ve ever run into. He also handles every problem from the standpoint of logic . . . and he’s a very thorough grammarian.”

Brinegar had limited experience with transportation, and that was mostly as a consumer:

Brinegar’s experience in transportation appears limited to what he has experienced at Union Oil – and that’s mostly pipelines. He told a Los Angeles news conference

yesterday that he has gained an extensive familiarity with transportation problems because he has flown one million air miles. He also pointed out he is a daily commuter on crowded Los Angeles freeways.

Another transportation link was his service on the Board of Directors of International Speedway Corporation, which operated stock car tracks in Daytona Beach, Florida, and Talladega, Alabama. His service on the board was not because he was a car or racing buff, but because Union Oil owned 25 percent of the firm and was the official fuel supplier for the National Association for Stock Car Racing. [Aug, Stephen M., "Brinegar Known for Management," *The Washington Star-News*, December 8, 1972]

Secretary Volpe, in a year-end news conference, said he would turn over the fate of the Three Sisters Bridge to his successor. The Department had not yet completed the court-ordered review of the proposed bridge. He said, "Two, three or four months of additional work is needed to come into compliance with the court order." [Eisen, Jack, "Volpe to Hand Over 3 Sisters Problem," *The Washington Post and Times Herald*, December 14, 1982]

While the Three Sisters Bridge remained on hold, officials were making progress on the Baltimore-Washington Parkway.

In February 1971, Maryland highway officials indicated that they planned to again seek designation of the Baltimore-Washington Parkway as part of the Interstate System. The \$65 million authorized by Section 146 of the Federal-Aid Highway Act of 1970 covered upgrading only the Federal portion of the parkway from the District line to Maryland Route 175 near Fort Meade. If that section were widened to six lanes and Interstate standards, the Maryland State Roads Commission would have to widen the northern state-owned portion from Fort Meade into Baltimore. Chairman-Director Fisher explained:

We have had some discussions with federal highway officials, and believe \$65 million is fairly close to the amount needed to do the job. We probably won't be able to sit down and work out a specific agreement until after the General Assembly here adjourns [on April 13]. It's necessary, though, that we also can improve the 14-mile road that goes from Route 175 into Baltimore, and widen it to six lanes. Otherwise, we'll eventually have a six-lane highway feeding into a four-lane highway."

With Interstate designation, he anticipated, Maryland would have 90-10 Interstate funds for reconstruction of the northern end. [Rowland, James B., "Interstate Designation Sought for Parkway to Baltimore," *The Evening Star*, February 8, 1971]

Negotiations between NPS and Maryland about takeover of the parkway did not go smoothly. Appearing before a House Appropriations subcommittee, FHWA Administrator Turner explained why his agency's budget for FY 1973 did not include the authorized funds for construction of the project. "Maryland has so far refused to enter into an agreement on the project." He said that "some planning and design work" were underway, but construction would not begin in FY 1973. A Maryland Department of Transportation spokesman explained that the State could not agree to maintain and police the project while construction was underway if the

Interior Department owned the road. The Interior Department did not want to use its resources on a road that was to be turned over to the State as soon as the widening was completed.

FHWA Executive Director Edgar H. Swick added that “the program is not getting off the ground as well as we had hoped”:

We have had problems between the Department of Interior and the state of Maryland as to who will assume the responsibility for maintenance and policing during construction. We have had three or four meetings with the two parties and so far the problem has not been resolved. We are still working on it.

Representative Conte, hearing Turner’s and Swick’s testimony, said, “This is a shame because it is really needed more than anything else around here, I would say.” [Barnes, Fred, “Parkway Widening Delayed by Hassle,” *The Evening Star*, May 9, 1972]

On June 7, NPS, the State, and FHWA found a compromise. Maryland would take over maintenance as each section of the road went to construction, with the contractor responsible for maintaining the section and controlling traffic as part of the bid price. The cost would be borne entirely by the Federal Government. NPS would continue police control of the entire parkway until construction was completed in 4 years. The agreement also called for completion of construction as quickly as possible, with final contracts to be awarded within 48 months of the first contract. Administrator Fisher said, “We will try to schedule it within the time period subject to the availability of funds for it.”

Assistant Director Raymond L. Freeman signed the agreement for NPS on June 7. Fisher and Turner signed it on June 8. [Barnes, Fred, “U.S. State Draft Parkway Accord,” *The Evening Star-News*, June 4, 1972; Lewthwaite, Gilbert A. “State, U.S. Agency Agree on Widening D.C. Parkway,” *The Baltimore Sun*, June 8, 1972]

The MSHA had submitted an application to the Regional Planning Council for \$4.3 million in Federal funds to begin preliminary engineering for reconstructing the parkway to Interstate standards. The council approved the request in November, subject to several conditions, including designation of the parkway and its State highway extension as an Interstate route connecting with I-95 in Baltimore. The council also called on Maryland to evaluate the environmental impacts of the project. The funding was subject to FHWA approval.

The project would involve widening to six lanes, reconstructing interchanges, and perhaps adding interchanges. If all went well, construction could begin in 3 years and would take about 5 years to complete at a total cost of \$115 million. The parkway section would be able to use the \$65 million authorized by the Federal-Aid Highway Act of 1970 for 100 percent of costs. The extension into Baltimore would use Federal-aid highway funds plus State and local matching funds.

Roland M. Thompson, the MSHA’s chief location engineer, said, “The two projects are going to be pretty staggering. It will wind up as a complete rebuilding of it.”

In approving the application, the council members acknowledged that the opening of I-95 between Baltimore and Washington had relieved congestion on the parkway. However, as State chief transportation planner William Okert put it, the parkway was still operating “near its capacity”:

Mr. Ockert said after the meeting that if the parkway were upgraded to interstate standards, trucks would be allowed on the entire length. Mr. Thompson said that was one of the questions to be taken up in the engineering study

Mr. Thompson said that the average daily traffic on the parkway at the district line was 73,000 cars [with trucks prohibited]; that at Friendship Airport, the road was carrying 52,000 vehicles a day; and that near the Baltimore city line, the traffic was 45,200 vehicles a day. [Dilts, James D., “Parkway Proposal Advances,” *The Baltimore Sun*, November 18, 1972]

By December, the *Star* could report on the Study Steering Committee’s action on the I-95 corridor in Maryland. The committee was studying five broad transportation proposals:

One would involve widening the Baltimore-Washington Parkway to eight lanes from the D.C. line to the Beltway and constructing a connector between the existing I-95 and the parkway in the vicinity of the Outer Beltway.

The connector would be designated I-95. The eight lanes of the parkway inside the Beltway would be divided among three northbound and three southbound lanes, with two reversible express lanes in the median for express commuter buses and car pools. Beyond the beltway, the parkway would narrow to six lanes.

The second highway alternative calls, in essence, for construction of the long-delayed North Central Freeway from I-95 and the Capital Beltway into the District. The highway would be generally within the PEPCO [Potomac Electric Power Company] right-of-way, entering D.C. near Gallatin and Galloway Streets NE. Short tunnel sections and depressed open-cut construction would be used to minimize adverse environmental impact.

The last highway alternative would make even more use of the PEPCO right-of-way, extending a six-lane I-95 south to New Hampshire Avenue, then along New Hampshire to the B&O railroad in the District.

Other options included using existing transportation lines to their maximum capacity, using Metro rapid transit funds planned for the Greenbelt line along with a comprehensive bus system and commuter railroads, to create a “mixed modes” approach of highway and rail improvements.

The committee also was considering the “no build” option. [Griffin, James, “I-95 Link to Parkway Being Studied,” *The Washington Star-News*, December 31, 1972]

In the spring of 1972, the District had completed a 1,600-foot segment of the Center Leg of the Inner Loop Freeway. It was six lanes wide, cost \$2.2 million, and was a freeway to nowhere,

with a wall of dirt and concrete 25 feet high at Massachusetts Avenue in the north and a hole in the ground for a subway tunnel at the south end at D Street. As it sat there, unusable, workers in the area began to clamor for its use as a parking lot. Jack Hartley of the District highway agency said, "So we responded to pleas to relieve the critical parking shortage." The city calculated the space could accommodate 500 parking spaces, which it distributed among Federal City College (200 spaces), metropolitan police department (200), and Georgetown University Law School (100).

As the year ended, the *Post* surveyed the result, noting that despite this orderly distribution of parking permits, "things got a bit out of hand":

The lot is so crowded that traffic police are issuing tickets (\$5 fine for parking in a reserved space) to poachers.

Part of the problem may be traced to Georgetown, where the would-be lawyers found, in the loose agreement with the city, a loophole big enough to drive hundreds of cars through.

We've sold about 600 decals," for the 100 spaces, said Dan Hurley, a student and assistant to the dean. "It was a deliberate oversell – it gives you a license to hunt."

Charging \$1.50 per decal, the law school took in \$900, making a profit beyond the city's \$600 assessment for painting lines to create the parking spaces:

City officials don't quite see it that way. "They did what?" shrieked Hartley "That's not part of the deal," continued Hartley. "We didn't think it would be a money-making proposition."

When the city would replace the Center Leg parking spaces with traffic was unclear, but a likely target date was the summer of 1973, possibly in August:

Even when, or if, the parking lot is abandoned, the Center Leg highway is destined to be somewhat of a crippled limb of a nonexistent inner loop.

The south end eventually will connect with the Southeast and Southwest Freeways. The freeway ends at Massachusetts Avenue on the north side, but a connector road will be built to New York Avenue. [Baker, Donald P., "New Use for a Freeway," *The Washington Post and Times Herald*, December 16, 1972]

As 1972 came to an end, the District lost \$66 million in Interstate construction funds. Based on apportionment of Interstate funds, the District had accumulated entitlement to \$267 million in unprogrammed funds, but the funds came with time limits. An unnamed District highway official told the *Star*, "We haven't been able to go ahead with Three Sisters Bridge, the Potomac Freeway along the Georgetown waterfront, the east leg of the Inner Loop, the upper end of the Center Leg and the south leg of the Inner Loop." These projects, despite congressional mandates, had been stalled by environmentalists, anti-highway programs, and court battles.

(The Federal-aid highway program operates on a reimbursement basis. The FHWA informs States and the District of the funds available to it by category each year, but the funds remain in the Highway Trust Fund. As the State or District expends its own funds on eligible projects, it submits vouchers during the course of project development for reimbursement. At that point, FHWA pays its share of the State's expenditures. In the case of the Interstate construction funds, FHWA may have taken back the unused funds (which had never left the Highway Trust Fund), but the District remained entitled to funds equal to 90 percent of the cost to complete its Interstate network. The annual apportionment would continue to reflect the cost to complete the Interstate System in the District. Thus, in later years, the apportionment would continue to reflect the unbuilt segments as long as the program continued.)

Virginia, by contrast, had obligated 100 percent of its Interstate highway funds, bringing the program to a "virtual standstill," according to Fugate, until Congress approved new Federal-aid highway legislation. The State had 11 Interstate highway projects ready to use \$142 million in Federal matching funds but could not proceed with them. One of the delayed projects involved widening the Cabin John Bridge on the Capital Beltway to eight lanes. Virginia highway officials considered it ironic that their efficiency in using Interstate funds resulted in the State being penalized in the wake of the congressional failure to approve the Federal-Aid Highway Act of 1972.

Maryland, with its many controversial Interstate highways in Baltimore and the Washington suburbs, had \$296 million in unspent highway funds. [Griffin, James, "Road Funds Periled," *The Washington Star-News*, December 30, 1972]

Awaiting Congressional Action in 1973

With prospects for construction of the North-Central Freeway declining, the District decided to auction off 34 row houses in its path. The 34 two-story, three-bedroom brick homes were on the west side of 10th Street between Rhode Island Avenue and Franklin Street, NE. The city hoped they could be rehabilitated and occupied by the families evicted 5 years earlier. With shifts in the alignment of the proposed freeway, these homes were no longer needed but the remaining dwellings of the 69 homes acquired were still in its path.

The city disclosed its plans in a letter seeking NCPC's approval. In the letter, Deputy Mayor Watt said the 34 homes "have been the subject of prolonged citizen concern because of the decay and crime affecting the Brookland community as a result of unoccupied structures . . . for over five years." NCPC's transportation committee endorsed the plan, but asked NCPC to withdraw any hint of support for the North-Central Freeway. [Eisen, Jack, "City to Sell Homes It Acquired," *The Washington Post and Times Herald*, January 3, 1973]

In Virginia, as noted, supporters of I-66 had organized to counter ACT and other opponents. Three western Fairfax County groups formed Citizens for I-66 and issued a fact sheet stating:

The issue is not concrete versus trees but people versus chaotic congestion and air pollution Travel time from the Capital Beltway to Washington would be cut nearly in one-half.

The group, formed by the Greenbriar Republican Club, Navy-Yale Community League, and the Centreville Lions Club, planned to distribute BUILD I-66 NOW bumper stickers and to submit a petition to Fugate urging him to “press for resumption of the I-66 project at the earliest possible date.” Spokesman Paul Alwine said motorists had been the “silent majority too long.” The fact that the freeway would follow an abandoned railroad right-of-way for about 6 miles “lessens the environmental impact” and by eliminating stop-and-go traffic on other roads “would cut down on air pollution also.” [Crosby, Thomas, “Start Firing Up I-66 Support,” *The Washington Star-News*, January 17, 1973]

The supporters’ impact was felt at a public debate held at George Marshall High School in Fairfax County sponsored by Howard, Needles, Tammen and Bergendorf under the contract to study the impacts of I-66. Turnout of about 400 people was nearly double attendance at the consultant’s public participation workshop on November 14, 1972, with many of the newcomers being Fairfax County residents who attended to support construction.

State Delegate James R. Tate, who represented a Fairfax County district, said:

Those of us who live outside the beltway and must commute daily into the District of Columbia have a very serious problem. The cost to Virginia [of abandoning I-66 inside the Capital Beltway] would be astronomical and the effect disastrous.

James Govan of ACT asked the consultant to “help us break this vicious cycle of more roads and more cars.” He argued that the extension of I-66 would increase air pollution, noise and traffic congestion.

Jay Mathews, in the *Post*, reported that the “nearly equal volume of applause and cheers for speakers on both sides of the issue was in marked contrast to November’s workshop . . . [when] the audience was almost entirely antihighway.”

A member of the consultant team told him, “The people came on so strong in November that it rankled the proponents and they made up their minds to prove that there were more people in favor.” As John Fowler of the consultant team put it, it was “unfortunate but many view these community workshops as public hearings and use this as the forum for expressing positions.” The consultants had hoped the workshops would provide “for extensive informal question and answer periods,” but instead he “sat down and quietly listened to nearly two hours of speeches.” [Mathews, Jay, “Supporters, Foes of I-66 Debate,” *The Washington Post and Times Herald*, February 2, 1973]

On March 13, the consultant released the results of a telephone survey, conducted by the nonprofit Bureau of Social Science Research, showing strong support for I-66:

Of 1,027 telephone customers polled at random in Arlington, Fairfax and Prince William counties and the city of Falls Church, 70.8 per cent said they approved of the proposed road, 22.1 per cent said they disapproved and 7.1 per cent said they didn’t care, the firm said

Even in north Arlington neighborhoods, where organized citizen opposition to the six- to eight-lane freeway has been strongest, 53 per cent approved of the road, against 38 per cent who disapproved

Along with the 70.8 per cent support for I-66, 92.7 per cent supported Metro, 83.1 per cent supported more express bus lanes, and 62 per cent supported construction of the Three Sisters Bridge connecting Arlington and the District, according to the survey.

The consultants released the results at another workshop, during which I-66 opponents pointed out that those polled actually favored alternatives to highways more than they supported I-66. In contrast, Horace Mann of Citizens for I-66 thought that “without a doubt,” the poll would speed final approval for the highway. [Mathews, Jay, “I-66 Backed in Va., Survey Shows,” *The Washington Post and Time Herald*, March 14, 1973].

Later that month, the Secretary Hughes of the Maryland Department of Transportation killed plans to build I-95 between the Capital Beltway and the District line through Northwest Branch Park in Prince George’s County. He called for study of a routing alongside a PEPCO transmission line parallel to New Hampshire Avenue:

I am in no way convinced that this option is feasible or desirable in terms of the ultimate outcome of the study. There are several compelling reasons, including legal considerations, for its inclusion [as an alternative].

He took these actions after a 6-month study while meeting with the Western Prince George’s Transportation Alternatives Study.

The steering committee had voted 31 to 26 against the PEPCO alternative and preferred four other alternatives. Secretary Hughes adopted those four alternatives for study, but felt the PEPCO alignment should have a public hearing. He also wanted to ensure consideration of all reasonable alternatives as required by NEPA.

Overall, Secretary Hughes adopted the steering committee’s four other plans for transportation development in heavily populated Prince George’s County inside the beltway and north of the Baltimore-Washington Parkway. Eisen summarized them:

All but possibly one of the five schemes would shift the location of the planned Metro rapid transit route to Greenbelt, would call for the widening the parkway [to eight lanes] and increase commuter service on the Baltimore & Ohio Railroad tracks that bisect the area

Metro’s current plans call for building its tracks on the now-scrapped I-95 median strip between Fort Totten in Northeast Washington and the Prince George’s Plaza shopping center at East-West Highway in Hyattsville.

Under various of the new proposals, the Metro line would be shifted from its right of way alongside the B&O tracks to alignments closer to the University of Maryland campus at College Park. Two of the proposals would shift the terminal from Greenbelt westward to

the point at which I-95 now ends at the Capital Beltway. [Eisen, Jack, "Officials Kills I-95 Route Into D.C.," *The Washington Post and Times Herald*, February 23, 1973; "New Plan Sought for I-95 Link," *The Baltimore Sun*, February 24, 1973]

Metrobus

At 2 a.m. on Monday, January 15, 1973, WMATA took over O. Roy Chalk's two bus lines: D.C. Transit System, which served the District and Montgomery County) and the WV&M Coach Company (Virginia routes, including express bus service across the Potomac River). After negotiations with Chalk did not reach agreement on a purchase price, WMATA had seized the operating assets and rights through condemnation.

On February 4, WMATA acquired the assets of the area's two other bus companies, the AB&W of Virginia and WMA of Prince George's County. According to Professor Schrag:

These two companies, which together server about 20 percent of the region's bus riders, had been in slightly better financial health, but they too were losing passengers. Rather than compete with a publicly owned bus system, they requested a takeover and were purchases by negotiation rather than condemnation.

He continued that "by purchasing assets rather than whole companies, WMATA had avoided taking over the companies' financial debts." For the Chalk properties, WMATA filed \$38.2 million with the U.S. District Court as collateral for the eminent domain takeover of the companies. The collateral represented WMATA's final offer to Chalk, who had rejected it. The court would settle the dispute.

Without fanfare, WMATA dispatched all 1,119 buses on their scheduled morning runs, and 1,116 for the evening peak period runs. On that first day, WMATA had managed to replace the former companies' names on some of the buses with the new name of the combined bus service spelled out in red, white, and blue: Metrobus. The "M" was identical to the "M" to be used on the Metro rapid rail service. Inside, the buses carried a sign informing riders that for the first time, "This Is Your Bus." [Eisen, Jack, "Metro Starts Inventory of Buses In Advance of Sunday Takeover," *The Washington Post and Times Herald*, January 13, 1973; Eisen, Jack, "No Fanfare Marks Bus Line Takeover," *The Washington Post and Times Herald*, January 14, 1973; Crosby, Thomas, "Metro at Helm of D.C. Transit, WV&M," *The Sunday Star and The Washington Daily News*, January 14, 1973; Schrag, Page 176]

WMATA understood that Metrobus would operate at a loss, projected initially at \$2.2 million to operate Metrobus in 1973. Based on a formula recommended by the WMATA board, the District would be responsible for \$1.1 million of the loss, with the Virginia suburbs (\$700,000) and Maryland suburbs (\$400,000) responsible for the remainder. The agency expected to use its borrowing authority initially to cover Metrobus losses.

Jack Eisen recalled that WMATA officials and Secretary Volpe had testified that they expected fare revenue to allow the bus service to break even:

Volpe said later that he based his prediction on information supplied him by Metro. Metro officials said they meant to indicate that the buses eventually would pay their own way after the Metro subway system goes into operation and the buses are converted mainly into a feeder service to subway service.

Apparently concerned over congressional or Nixon administration reaction, both Watt and City Council Chairman John A. Nevius have insisted at recent Metro board meetings that the agency's official references to the certainty of deficits be watered down.

In its formal adoption of a bus takeover plan, the board accepted Nevius' language that "public bus transit today is not necessarily . . . profitmaking" and that the future level of service and fares depends on a "willingness to assume or develop funding sources" to pay for "possible operating deficits."

Although local governments recognized that they would be responsible for deficits, they were hopeful that Congress would authorize a subsidy for Metrobus, even if the Nixon Administration opposed transit subsidies for the country's money-losing transit public operators. [Eisen, Jack, "Metro Lacks Subsidy in Bus Takeover," *The Washington Post and Times Herald*, January 7, 1973]

On February 17, during a meeting to work out a regional agreement to allow Metrobus to acquire 620 new buses, WMATA Comptroller Lowe revealed that losses in 1973 would be 20 percent higher than expected – \$3 million instead of \$2.5 million. Lowe added that cumulative losses for the first 5 years would be nearly \$40 million instead of \$35.8 million as previously predicted.

Eisen reported:

The main reasons for the higher loss estimate, Lowe said, were the Metro board's decision to eliminate extra transfer charges for rides between the city and the suburbs and to grant a discount to elderly bus riders throughout the region.

District Councilman Robinson, hearing the prediction, said "we may have trouble" getting Congress to approve the city's share of the deficit. "But we're going to fight for it," he told the officials. "I think we're going to get it." [Metrobus Losses in 1st Year To Run 20% Over Estimate," *The Washington Post and Times Herald*, February 18, 1973]

On February 1, Deputy Mayor Watt resigned to head the Office of Revenue Sharing in the Department of the Treasury. The White House did not name a successor. On January 11, 1975, Mayor Washington appointed his closest advisor, Julian R. Dugas, the city administrator, the new number two post in the city government. [Kiernan, "Mayor Picks Dugas As Top Assistant," *The Washington Star-News*, January 11, 1975]

The Senate Takes Up the 1973 Act

Because of the failure of the Federal-Aid Highway Act of 1972, many States needed a new apportionment of Federal-aid highway funds. They also needed a new apportionment of Interstate funds that had been frozen when the provision approving the 1972 ICE apportionment

factors had died with the bill. Congress, therefore, turned to the subject early in 1973, beginning new rather than simply reconsidering the 1972 bill that had died at the end of the previous Congress.

All the issues from 1972 remained to be resolved, including what to do about the controversial Interstate highways, particularly in urban areas, that appeared unlikely to be built. In addition, the fight over legislation ending the Federal status of the North Expressway in San Antonio grew stronger, with many opponents citing concerns that it would set a precedent for congressional action on other controversial projects. What to do about the unbuilt District freeways was another concern.

The Senate Subcommittee on Transportation began hearings on S-502 on February 7, 1973. As the hearings began, Senator Bentsen, chairman, introduced the bill, which contained his provision allowing Texas to repay Federal-aid funds and build the North Expressway with State funds. It also dealt with controversial Interstate segments by allowing States to substitute other Interstate routes to be built under the Interstate Construction Program, with Federal funds limited to the cost of the withdrawn routes.

Secretary Brinegar was the first witness. He generally supported the ideas Secretary Volpe had proposed in 1972, but was still new to transportation policy and was unable to elaborate on many points.

Senator William L. Scott, who had defeated Senator Spong in November 1972, was now a member of the subcommittee. One of his top legislative priorities was completion of I-66 from the Capital Beltway to the Theodore Roosevelt Bridge. During his question period, he expressed his frustration about delays in building I-66 into the city. "I hate to think that our Government is so ineffective that we cannot build a highway." He knew about the court action delaying the route, but he wanted to know what the Secretary could do to expedite construction – "without telling us why it cannot be built." Secretary Brinegar noted that he now lived in Virginia (at 4056 41st Street North, Arlington, near the intersection of Chesterbrook Road and North Glebe Road, distant from the I-66 routing) and was aware of the problems of getting into and out of the city. However, "I have to admit I have not yet gotten to I-66." He promised to look into the issue. [*Federal-Aid Highway Act of 1973*, S. 502, Hearings, Subcommittee on Transportation, Committee on Public Works, United States Senate, 1st Session, 93rd Congress, Serial No. 93-H2, 1973, pages 108-109, 113-114]

When the National Wildlife Federation's counsel, Robert M. Kennan, Jr., testified later that day, he addressed many issues and submitted a detailed statement. He called the exemption of the North Expressway in San Antonio "a shameful precedent" but expressed relief that S. 502, unlike the House bill in 1972, did not contain any "ill-conceived provisions that would have confounded the confusion resulting from the Congress' first foray into the District [of Columbia] highway matters in 1968." [page 193]

The federation's statement elaborated on its concerns about the Three Sisters Bridge. The statement commended the Senate for resisting repeated attempts by the House to force the District to build the bridge, but acknowledged that the issue was likely to come up in 1973. After

quoting Section 139 from the House version of the Federal-Aid Highway Act of 1972, the statement said:

We are not constitutional lawyers, but this language would appear to be if not outright unconstitutional, at least downright dictatorial. Denying the public access to the third branch of government is denying the public the protection of the checks and balances which our constitution set up.

The statement mentioned Secretary Volpe's observation that he would be held in contempt of court if he obeyed that provision. The House Committee on Public Works had not released its version of the 1973 Act, but the statement emphasized that "it is time the Congress stopped intervening in this dispute." As with the North Expressway provision, a section on the Three Sisters Bridge, if enacted, would set a precedent for congressional interference:

Further, the bridge is the keystone to the freeway system which includes the ill-conceived South Leg – which would desecrate the Lincoln Memorial, Tidal Basin and whole monumental park area. Is nothing sacred? We urge the Senate once and for all to try and persuade the House to get out of the business of designing highways and back to the tasks for which the Members were elected by their constituents. [pages 888-889]

On March 1, the Senate Public Works Committee rejected, 6 to 8, the Muskie-Baker amendment, formerly the Muskie-Cooper amendment, to open Federal-aid urban system funds to rail transit. (Senator Baker of Tennessee has replaced retired Senator Cooper as the cosponsor.) Despite the committee rejection, Senator Muskie was optimistic that the amendment would be approved on the Senate floor. Recalling the 48 to 26 vote approving the Muskie-Cooper amendment in 1972, he said, "We had a good margin last year and I hope we do as well this time." ["Mass-Transit Backers in Senate Lose Bid to Tap Road Fund But See Eventual Win," *The Wall Street Journal*, March 2, 1973]

However, the committee approved other key provisions related to the urban Interstate debates around the country:

- At the request of a Governor and the local governments concerned, the Secretary could withdraw approval of any Interstate segment if the route is not essential to completing a unified and connected system within a State. Dollar-for-dollar substitution of an essential connection would be permitted without restriction on length. The existing 200-mile limit for substitute routes, known as Howard-Cramer mileage, would be repealed.
- If a substitute connection were not needed, or if the cost of the connection would be less than the cost of the original route, the total amount of the difference would be available for use on the Federal-aid urban system or for local public transportation purposes under Section 142 of Title 23.
- States must notify the Secretary by July 1, 1974, of their intent to build remaining Interstate segments. By July 1, 1975, States must submit a schedule for completing their remaining segments (including alternate segments). Otherwise, segments would be removed from the System.

As the Committee on Public Works completed work on S. 502, Senator Scott introduced an amendment requiring completion of the draft environmental impact statement for I-66 by October 1 as well as completion of all notices, reviews, and final consideration by the Secretary of Transportation by December 1, 1973. The committee adopted the amendment. After summarizing the history of the I-66 controversy, the committee report issued on March 13 stated:

The bill would direct the Secretary to complete the draft environmental impact statement on this I-66 project by October 1, 1973, and to circulate it to all interested public agencies for comments within 45 days after issuance of the required notice. By December 31, 1973, the Secretary would have to complete his consideration and review of all comments and information from the hearing, file the final version of the environmental impact statement, and make the other final determinations required by law before construction could proceed. The Secretary's determination on all issues of fact would be conclusive.

It should be pointed out that the Committee recommendations would have no effect on judicial decisions made pertaining to the procedures used for selecting the route for this highway nor would it bar future litigation of any kind. To the contrary, in order to expedite those procedures, the bill would establish a schedule to be followed by administrative agencies charged by law with reviewing the environmental impact statement and making final determinations. [The Federal-Aid Highway Act of 1973, Report, Committee on Public Works, United States Senate, 93d Congress, 1st Session, Report No. 93-61, March 13, 1973, pages 23-24]

After the committee adopted the I-66 amendment on February 28, Senator Scott told reporters:

"The highway will be built. I'm confident that it will be," said the senator, smiling broadly as he left the closed-door Committee meeting. "You can be assured that I'm going to bird dog this thing. I'll go to the White House"

Scott said he has no worry but that all the reviewers will ultimately determine that the highway is needed. What he is concerned about, he said, is that the studies will drag on unduly.

Scott interpreted his amendment as follows:

"It in effect does say, let's build a highway. Let's do what the law [court order] provides, but let's build a highway."

According to Senate aides, he had initially considered an amendment that would exempt I-66 from environmental, economic, or social studies required by law and subject to court review:

His choice of the more moderate strategy of tight review schedules came, Scott said, as a result of "compromise" in the Senate Public Works Committee.

Although Senator Scott said Virginia highway officials assured him the schedule in the amendment could be met, Fowler of the consulting firm preparing the environmental document said the firm was 1 month behind the September contract date. Completion was now looking

more “Octoberish.” He said, “It’s not beyond the realm of possibility that we could make the time up but I’d say that’s pretty remote, in all candor.” [Denton, Herbert H., “Measure to Build I-66 in Arlington Passes Senate Unit,” *The Washington Post and Times Herald*, March 1, 1973]

The Senate took up the Federal-Aid Highway Act of 1973 on March 14 and 15. On March 15, the Senate considered the provision freeing the San Antonio’s North Expressway from Federal oversight. As in 1972, Senator Buckley introduced an amendment to delete the provision from the bill. He acknowledged that supporters of the expressway had made the case that due to the unique circumstances of the case, the provision would not be a precedent for congressional action to resolve other highway disputes. “Notwithstanding,” he said, “it does provide a very large precedent and one which will be cited time and time again”:

What it is saying, in effect, is: Go ahead and reach out for that Federal money and when your hand gets caught in the environmental cookie jar, offer it back and proceed.

It is my understanding that there are over 30 cases, certainly not on all four’s with this one, where equivalent arguments could be made for elimination of Federal protection. There was one matter offered in committee by the Senator from Virginia relating to the exemption of I-66 in Virginia. He understood arguments against this kind of legislation and, therefore, he resubmitted an amendment which would contemplate the full environmental procedures, only provided that there would be special priority granted to the consideration of the impact statement once submitted.

Senator Bentsen addressed the issue of precedent earlier when he said:

Senator Buckley speaks of all these interstate projects waiting back here in the hills and in the wings which will be seeking relief. This is not an interstate project. I have not heard any State offers to build a 90 percent federally-financed interstate system with local funds. Just name one. Even if a State wanted to build one, Congress could not wash its hands of such a project. Interstate highways have been designated as part of a national system. What we have in San Antonio is local people wanting to build a local road with local funds.

After a lengthy debate, the Senate rejected the Buckley amendment, 43 to 50. [Federal Aid Highway Act of 1973, *Congressional Record-Senate*, March 15, 1973, pages 8184-8193]

As the Senators discussed provisions of the legislation in sequence, Senator Scott inserted comments into the record on the I-66 provision. He explained that when the 93rd Congress convened, he asked to be included in the Committee on Public Works because of his interest in transportation and specifically completion of I-66 inside the Capital Beltway:

For this reason, I was glad to be assigned to the Senate Committee on Public Works and asked to serve on the Roads Subcommittee – now the Transportation Subcommittee. At our organizational meeting on January 18, as members of the committee will recall, I discussed my interest in the prompt completion of I-66. Further, on the opening day of hearings on this bill on February 7, I expressed an interest in the immediate construction

of I-66 to Secretary of Transportation Brinegar – as I had done in former years with Secretary Volpe, and in fact with President Nixon.

Section 152 of the pending bill is one which . . . I developed with the assistance of the chairman of the committee (Mr. Randolph) and the ranking minority member (Mr. Baker) – one which we agreed would not conflict with either the requirements of the National Environmental Protection Act [sic] or the section 4(f) parkland procedures of the Department of Transportation Act. It is carefully designed not to affect any court action, but simply to insure that the administrative requirements and determinations which must precede construction take place in an orderly and expeditious manner, so that further unnecessary delay does not occur

When a matter has been under construction [sic] for 17 years and the road still is not built, then it seems reasonable to me that some dates for administrative action should be taken so that the highway can be constructed. [pages 8216-8217]

The provision did not warrant discussion or any opposition. It remained in the bill when the Senate approved it later that day, 77 to 5, as did the North Expressway provision. [page 8232]

The House Gets to Work

The House Subcommittee on Transportation, as the former Subcommittee on Roads was now called, began work on the 1973 Act in March. After Senate action on S. 502, the Subcommittee held hearings on March 19 through 23 regarding future highway needs. The subcommittee had not yet released a Federal-Aid Highway Act of 1973 bill, but Chairman Kluczynski hoped the witnesses would help the subcommittee “cope with the questions presented in S. 502 which has passed the Senate, and also the administration bill, which I introduced at the request of the administration on March 5.” (The Administration bill had not addressed Interstate freeway issues in the Washington area.)

Because of the “emergency of the issue on mass transit,” he said the subcommittee had invited witnesses from “the entire spectrum of the mass transit program,” including operators, manufacturers, and unions. He added that the Committee on Public Works was “highly in favor of mass transit as it is for highways,” including “the proper financing of these two complementary systems of transportation.” The witnesses would help the subcommittee find “a proper solution to the problem and not one which represents a hastily contrived and partial answer which will only promote further confusion.” [1973 Highway Legislation (*Future Highway Needs*), Hearings before the Subcommittee on Transportation, Committee on Public Works, U.S. House of Representatives, 93rd Congress, 1st Session, Report 93-5, March 19-23, 1973, page 1]

As in the Senate Committee on Public Works, the hearings covered many issues, but occasionally covered issues relating to highways in the Washington area. Thomas Airis was president of AASHO in 1973, but testified only on the association’s positions. He did not comment on and was not asked about District freeway construction. [pages 548-564]

On March 21, Robert Kennan appeared before the subcommittee on behalf of the National Wildlife Federation. As had been the case during his testimony before the Senate Subcommittee on Transportation, Kennan objected to the attempts to exempt San Antonio's North Expressway from Federal requirement:

We deplore this committee's proposal last year to exempt the San Antonio North Expressway from Federal environmental laws by special legislation. It would be a shameful precedent for similar action elsewhere in the country.

He also objected to the provisions in the committee's 1972 bill on District freeway issues. He cited Section 139 on the Three Sisters Bridge, Section 140 exempting the Interstate freeways from the 1893 District highway law, and Section 110 exempting the District from the provision requiring deletion of Interstate segments if the Secretary of Transportation did not receive a satisfactory schedule for construction:

We urge the committee to resist any proposal to include provisions specifically relating to District of Columbia highways in the 1973 Federal-aid legislation.

The District highway controversy is extraordinarily bitter and complex. This committee has [now] first-hand information about current public sentiment; no congressional hearings have been held on the subject since April 1968, 5 years ago.

Since this committee took an interest in the controversy, we have witnessed a revolution in the attitudes of people living in the Maryland and Virginia suburbs toward solutions to this area's transportation problems.

Kennan cited Representative Gude's opposition to District highway legislation since it might affect I-70S inside the Capital Beltway, and construction of the Metro system, now well underway:

Most people who live and work in the Washington metropolitan area would apparently prefer rail transit and express bus service rather than more Interstate highways, to meet their future transportation needs. The proposed highway system this committee considered in 1968 is now almost universally regarded as a relic of the past.

It would be contrary to principles of proper planning and public participation in vitally important transportation decisions for this committee to compel the construction of any remnant of that antiquated system.

Representative Abzug asked Kennan:

Do you feel that all District of Columbia highways in this Federal-aid legislation should be left to local consideration?

Kennan said the federation agreed, added, "We think this is true across the country." Federal-aid legislation was "no place" for Congress to "resolve these very difficult local matters, and this is

true of the District of Columbia, as well as the controversies in Minneapolis, Seattle, Memphis, San Antonio, and elsewhere.”

Representative Abzug, observing Kennan’s objections to the San Antonio and Three Sisters Bridge provision in the 1972 legislation, said, “Perhaps we will have a bit more success, I think so.” [pages 479-491]

The next witness was John Lagomarcino of the National Recreation and Park Association. He focused his testimony on provisions in the 1972 House bills. The association objected to the provision on the North Expressway:

Such legislation would be a dangerous precedent with serious national ramifications. Congress will have begun the task of undercutting, on a case-by-case basis, its own environmental safeguards.

The association also objected to the provision on the Three Sisters Bridge, citing its similarities to the San Antonio situation. He asked, “will the Congress, on a case by case basis, attempt to substitute its judgment for that of responsible authorities, citizens, and the courts *in an individual case?*” The provision in the 1972 bill would have deprived Virginia residents of access to the courts “if state officials should abuse or exceed authority relative to transportation projects of all types, including the Three Sisters Bridge.” [pages 492-497]

On March 22, Cynthia Wilson appeared before the committee on behalf of the National Audubon Society. She began by opposing the S. 502 provision allowing North Expressway to advance without complying with Federal requirements. Aside from the concern about the impact on Brackenridge-Olmos Basin Parklands, she was concerned about the precedent:

To vote to allow one State to wriggle out of compliance with both section 4(f) and NEPA is a vote against both of those landmark statutes and will be viewed as just that by the people. Congress can, if it wishes, overturn judicial decisions, but in doing so Congress seems to be saying, “We really didn’t mean it when we voted to protect public parks; that was all rhetoric”

You have seen the result of congressional meddling in the Three Sisters Bridge dispute; this is a horse of the same color. One exception will beget another; and this committee could become bogged down in a myriad of requests from different parts of the country.

She said the society had long opposed construction of the Three Sisters Bridge:

The language in the House bill last year not only deprived the citizens of the District of Columbia and Virginia of judicial review, it also would have set a precedent depriving all citizens of judicial review in highway cases.

As Kennan had said, Wilson acknowledged that the society did not consist of constitutional lawyers, but considered the language “to be if not outright unconstitutional, at least downright dictatorial” in denying citizens of the area access to judicial review. She urged Congress to stop

interfering in such disputes, which take on national significance because they involve the Nation's capital:

Further, the bridge is the keystone to the freeway system which includes the ill-conceived south leg – which would desecrate the Lincoln Memorial, Tidal Basin, and the whole monumental park area.

Is nothing sacred? We urge this committee to reevaluate its past decision and stop forcing this bridge on the people of Virginia and Washington.

During the question period, Representative Abzug commented:

Well, I remember, of course, that in the last session of Congress, we did concern ourselves with some of these like the Three Sisters Bridge, and I think that the committee will have to take very seriously the question of these special involvements in special areas.

The Three Sisters Bridge did receive some considerable opposition on the floor of the House, in view of the fact, particularly to those of us who are constitutional lawyers, that it presented some very dangerous precedents, not only for highway legislation, but for legislation in general. We will try to defeat it again this year.

Representative Jim Wright (D-Tx.), a leading figure on the subcommittee, engaged in a brief dialogue with Wilson:

Mr. Wright. Mr. Chairman, very briefly, with regard to the San Antonio Expressway, an effort is underway on the part of proponents and opponents locally in the San Antonio area to try to find some mutually amicable resolution of this problem. If they can, it would relieve Congress of the responsibility.

Ms. Wilson. We think that would be the best solution if the local people could find an answer among themselves, that would be the best solution of all.

Mr. Wright. To the end that this might be encouraged, both proponents and opponents have merely filed testimony for the record, feeling that conversation may exacerbate rather than relieve the problem. [pages 606-609]

The next witness, ACT's Emilia Govan, submitted a statement covering several issues, but primarily focused on I-66 inside the Capital Beltway in northern Virginia. She cited the poll showing that area residents preferred mass transit to highways. For example, when asked to rank four options (Metro, reserved express lanes, improving existing highways, and building I-66), Metro was the first choice for 62 percent of respondents. Only 15 percent chose I-66 as the first choice.

She said ACT opposed any provision that would overturn a court order requiring compliance with Federal law, including the provisions in S. 502 on the North Expressway and the measure in the 1972 House bill on the Three Sisters Bridge. Legislative provisions such as these were

“unnecessary and undesirable.” Federal-aid legislation should legislate broad national policies, applied consistently around the country. “Special-purpose legislation on highway segments is unnecessary, because all the legal requirements imposed upon administrative agencies by the Congress and applied by the courts are reasonable.” Congress, therefore, should not “be wasting its time” considering the merits of such projects.

She urged the House not to include Senator’s Scott’s amendment to S. 502:

The setting of arbitrary deadlines for the required study and consideration of a complex and controversial matter may well prejudice the objectivity and thoroughness of such consideration, and adversely affect the citizen participation aspects of the process.

She cited the U.S. Court of Appeals ruling, the Supreme Court’s decision not to hear an appeal, the study underway by the VDH’s consultants, and the department’s statement at the first “Community Workshop” that the study would take 12 to 18 months, but no arbitrary deadlines would be set. She also quoted Fowler, who had stated that, “Predicting the actual time it will take to fully consider all aspects is unusually difficult to do.” She also pointed out that after Senator Scott’s amendment had been adopted, Fowler told John Frece of the *Reston Times* that finishing the study by October was “pretty improbable.” Being forced to complete the study by then meant short-changing public involvement, adding, “There’s no sense to do it (the study) if we don’t react to the response.”

Further, Senator Scott’s provision was based on the assumption that “the inevitable conclusion of the study and of the required environmental considerations will be that the I-66 project should be constructed.” Such an assumption misconstrued the purpose of the environmental review. The study would be “superfluous if the original action proposed by the highway agency is the only one with any possibility of being implemented.” The provision also implied that “the legal requirements imposed by Congress and applied by the courts are nothing but mere paper-shuffling formalities to be gotten out of the way as quickly as possible so that the project may proceed as planned.”

Govan added that the Senate committee had adopted the Scott amendment after the committee’s hearings. As a result, the Senate did not hear testimony on the provision:

However, several Northern Virginia citizen organizations did express their opposition to any special legislation relating to I-66, in a telegram to members of the Senate Public Works Committee

Representative Abzug said that similar controversies were occurring around the country. Hearing from groups such as ACT was important because it would help committee members understand that “we have to have a more realistic and social view toward the old questions of transportation, and also a more orderly way of solving the conflicts” [pages 609-614]

On April 3, the Committee on Public Works met to consider S. 502. Representative Wright offered an amendment to substitute H.R. 6288 for the Senate bill following the enacting clause. H.R. 6288, which was essentially the 1972 House bill, covered the wide spectrum of highway

and highway-oriented transit measures, as well as provisions involving specific projects, including:

- “Federal-Aid Systems” (Section 110) – exempted any Interstate segments referred to in Section 23 of the Federal-Aid Highway Act of 1968 from timetable requirements.
- “Termination of Federal-Aid Relationship (Section 113) – allowed Texas to repay Federal-aid highway funds used on the North Expressway and complete the project with State funds.
- “Three Sisters Bridge” (Section 138) – Prohibits courts from issuing any order or taking any action that would in any way “impede, delay, or halt” construction of the bridge.
- “District of Columbia” (Section 139) – exempted the District’s Interstate highways from the 1893 act on a permanent system of highways for the city.

As the committee began considering Representative Wright’s motion, Representative Abzug raised a point of order:

Rule 11 of the Rules of the House provides that it shall not be in order for any bill providing general legislation in relation to roads to contain any specific provision for any specific road. I have read the gentleman’s amendment, and it seems to me it definitely violates this rule.

A great majority of the provisions in the bill refer to roads and related transportation in general, but Sections 113, 129, 131, 138, 140, 223 and 224 contain specific provisions for roads and related individual projects all across the country.

Chairman Blatnik sustained her objection.

Representative Wright replied:

I accede to the point of order, which I think was properly raised and has been properly sustained, notwithstanding the fact that all this material was encompassed in the bill that this committee approved and the House bill passed last year.

His original motion having been ruled out of order, he offered a second motion to substitute a new version of his bill minus the provisions Representative Abzug had cited. The committee approved the change.

Although committee members tried to reinsert their specific provisions, Representative Abzug’s point of order was sustained later in the process. The result was that most of the deleted provisions were left out of the S. 502 bill the committee approved on April 10. One provision that survived was contained in Section 139, exempting the District’s Interstate freeways from the 1893 law. The House committee report on the bill repeated the language from the 1972 report on the exemption.

The approved bill also exempted the District from the deadlines requiring submission of a schedule for completing the Interstate routes (July 1, 1974) and submitting PS&E for all unbuilt segments (July 1, 1975). The exemption applied to any segment of the Interstate System cited in

Section 23 of the Federal-Aid Highway Act of 1968. [Federal-Aid Highway Act of 1973, Report on S. 502, Committee on Public Works, U.S. House of Representatives, 93d Congress, 1st Session, House Report No. 93-118, April 10, 1973, pages 11, 27, 56]

In addition, the members approved a measure, Section 145, that addressed the timetable for completing environmental impact statements on a State Route 18 bridge over the Raritan River in New Jersey and I-66 in northern Virginia. The I-66 measure was essentially Senator Scott's provision.

The next step was for the Committee on Public Works to present the bill to the Committee on Rules, which would establish the rules for House consideration. Members of the Committee on Public Works appeared before the Rules Committee on April 12. According to a transcript of the hearing, Representative Wright told the Rules Committee:

We have asked for a waiver of points of order in certain provisions of the bill which would be subject to points of order Those provisions in the bill that would be subject to points of order relate to specific highways and a general highway [sic] and we would ask you to waive points of order. However, if a member wanted to make an amendment to knock out one of those, he should be entitled to do it. [Stenographic Transcript of Hearings on S. 502, Federal-Aid Highway Act of 1973, Before the Committee on Rules, U.S. House of Representatives, April 12, 1973, Reynolds Reporting Associates, Inc., page 8. (The House did not publish reports on the discussions in the House Committee on Public Works or the Rules Committee. Transcripts were found in the subscription service, ProQuest – Legislative Insight.)]

As requested, the Rules Committee adopted a rule, House Resolution 356, for considering the Federal-Aid Highway Act of 1973 that among other measures, waived all points of order on amendments addressing specific highways in general legislation. On April 17, after brief debate, the House of Representatives adopted the rule. [Federal-Aid Highway Act of 1973, *Congressional Record-House*, April 17, 1973, pages 12793-12796]

The House began debate on the Federal-Aid Highway Act of 1973 on April 18. As committee members discussed each section of the bill, Representative Abzug took her turn to discuss several of them, including Section 139 regarding Interstate highways in the District of Columbia. The provision, as she noted, was identical to Section 140 in the 1972 legislation that failed. She did not intend to offer an amendment striking Section 139 from the 1973 version, but wanted to clarify one point:

The committee's report suggests that section 139 refers only to a provision in the act which prohibits construction of a highway at a width greater than 160 feet. That statement is not correct. Section 139 would, by its terms, repeal all the provisions of the 1893 act in relation to interstate highways in the District.

She referred to her statement of additional views on the 1972 legislation and entered it into the record of the debate. [Federal-Aid Highway Act of 1973, *Congressional Record-House*, April 18, pages 13116-13117]

Representative Stanford E. Parris (R-Va.), a lawyer from Fairfax County who had won election in 1972 to now-Senator Scott's former House district, commented on Section 145 affecting the timetable for review of I-66. His comments were extended remarks, not delivered on the House floor:

I firmly believe that approval of this section of the bill will constitute a great public service, not only to those who daily commute from Virginia to the District of Columbia, but also to the many visitors who annually arrive in our Capital City.

He explained that I-66 was "an integral portion of our nationwide system," but had been delayed for the past 17 years "in spite of the fact that all traffic studies which have been conducted point out the urgent need for I-66 as part of a balanced transportation system for the Metropolitan Washington area." He had been "particularly pleased" that the Senate included a comparable provision in its bill, and he strongly urged his colleagues "to do likewise." [Federal-Aid Highway Act of 1973, *Congressional Record-House*, April 18, page 13106]

The House passed the bill on April 19, 1973, by a vote of 292 to 93. The final bill retained the provisions affecting the District of Columbia and I-66 in Virginia. [Federal-Aid Highway Act of 1973, *Congressional Record-House*, April 18, 1973 (pages 13097-13145) and April 19, 1973 (pages 13224-13276)]

While Congress Worked

On March 9, 1973, the Interior Department wrote to the District Department of Highways and Traffic regarding plans to build a freeway tunnel under the Lincoln Memorial plaza. In the draft environmental impact statement, the letter stated, the District had failed to justify the plan, saying "... this department finds it premature to consider this project" while others are in limbo, including I-66 and the Three Sisters Bridge. The letter recommended that the District consider alternatives that "could be less disruptive and/or more compatible in this highly sensitive National Capital area." Interior suggested review of an alternative of building the freeway on the Virginia side of the Potomac River or dropping the South Leg altogether in favor of improving existing roads.

The *Post* summarized Interior's comments:

- The highway department failed to provide enough information on the impact of the freeway on parkland or to support its contention that the project would actually add parkland by eliminating some existing roads.
- The highway department statement failed to analyze the impact the project might have on water resources in the Tidal Basin.
- The question of the aesthetic impact of the project is analyzed in "a fragmentary and elementary way."
- The highway department failed to analyze the impact that vibrations from traffic might have on the Lincoln Memorial.
- The highway department failed to support its conclusion that the construction of the freeway would improve air pollution conditions.

The *Post* mentioned that in October 1972, Russell E. Train, chairman of the Council on Environmental Quality, had written to Secretary Volpe to suggest that only “minimum improvements” be made to existing roads. The plan would not solve all problems but Train thought it would “serve most anticipated traffic” until officials can determine how Metro would affect traffic volumes. [Scharfenberg, Kirk, “D.C. Freeway Unjustified, U.S. Asserts,” *The Washington Post and Times Herald*, April 6, 1973]

Thomas Crosby, in the *Star-News*, reported on May 10 that the Department of Highways and Traffic had submitted the final design plans for the South Leg to the city council and Mayor Washington. The 84-page design report described the South Leg Freeway (I-695) as a six-lane, 1.5-mile freeway connecting the District side of the Theodore Roosevelt Bridge with the Southwest Freeway:

The final design calls for the freeway to be composed of three 13,000-foot long tunnels and two 25-30 foot deep, 550-foot long depressed roadways which could later be converted into a single mile-long tunnel.

Floodgates would be provided across from the Bureau of Engraving and Printing [on 14th Street, NW.] to handle any overflow of the Potomac River, which highway officials say would occur only once every 50 years.

The report stated that “all of the structures subjected to water pressure are thoroughly waterproofed.” The result, as Airis had said during the hearings, would be that the freeway would make an extra 4 acres of land available for park use. “What other highway project,” he asked, “has ever given land back to the park service?”

The city council, Crosby said, “has gone on record as favoring the freeway, which originally was requested by the National Park Service to alleviate traffic and provide additional park area.”

The report addressed concerns expressed by NCPC, the Interior Department, and others about the plan:

The planning commission said alternate routes should be explored, and the final report says both Constitution Avenue and Jefferson Davis Highway (U.S. Route 1) were inadequate to handle the 67,000 cars which now use Independence Avenue daily.

The Interior Department said the draft environmental statement lacked “specificity and quantification” and suggested another draft be drawn up and circulated for comment.

The final design report stated that all adverse environmental impacts were “confined principally to the [three-year] construction period.” The final environmental impact statement had not yet been released to the public, but Airis assured reporters that it addressed the concerns expressed by the Federal agencies.

Airis called the \$110-million project a “high priority objective” that must be approved quickly if construction was to be completed in time for the rush of visitors for the 1976 Bicentennial

celebration. [Crosby, Thomas, "Freeway Decision Due," *The Washington Star-News*, May 10, 1973]

A *Star* editorial expressed skepticism that delivery of the report on the South Leg Freeway to the city council and Mayor would lead to construction. It sounded simple enough. "If the mayor and council approve, the project goes to the Department of Transportation and gets built. If not, it dies. Right?"

The editorial answered that question: "Not necessarily." The concept of tunneling under the Lincoln Memorial plaza and the Tidal Basin was "eminently sound," but "something – a policy switch or a financial hitch or a rash of new esthetic objections – always has seemed to go wrong." Just getting automobiles out of sight of park visitors would be "a significant aesthetic gain for the whole area":

Perhaps, as the highway people believe, the plan's latest refinements – responsive to specific criticisms voiced last year – finally will be sufficient to avoid another of the unforeseen setbacks that so persistently have materialized in the past.

With our fingers crossed, we hope they're right. ["Highway Merry-Go-Round," *The Washington Star-News*, May 15, 1973]

As if to demonstrate the editorial's point, Conrad Wirth, the former NPS Director and NCPC member, took strong exception to Crosby's article:

It is hard to believe that anybody – even a highway engineer – would make such a recommendation as that advanced by the District Highway Department; that is, to put a six-lane interstate highway through this nation's great memorial Mall and the stretches of cherry blossom trees of West Potomac Park. It is even harder to give credence to the proposal for putting it through the area set aside by Congress to memorialize President Franklin Delano Roosevelt. And to follow the suggestion with a sarcastic and self-righteous statement that four acres of land are being given in exchange is simply to add insult to injury.

Wirth said the statement that the NPS had requested the freeway was not correct. "The only thing the service tried to do was to get the traffic past the Lincoln Memorial underground, and into Independence Avenue." Wirth favored the NCPC proposal for a tunnel the entire length from the Theodore Roosevelt Bridge to a junction with the Southwest Freeway east of the railroad tracks near 14th Street.

As for the claim that adverse environmental impacts would be confined mainly to the construction period, Wirth asked, "How in the world can anybody make such a statement about a six-lane interstate highway going through the nation's great memorial area?" The construction period was the least of the problems; its impacts can be corrected. "But those heavy-traffic roads, operating twenty-four hours every day, would constitute a pollution, beyond all imagination, of our air, hearing, and scenic and historic heritage. The idea is frightful."

He also was skeptical about the added 4 acres parkland that Airis had cited. “What four acres?” If he was referring to land on Independence Avenue from 14th Street to the Potomac River, the NPS already owned the land. As a result, “the highway group doesn’t have it to give away.” Was it the area of fill in the Tidal Basin that they were proposing be built? “That would be as destructive as is the six-lane interstate highway they propose to build”:

But I guess we can’t expect anything very different from people who have spent their lives building highways. They don’t seem to have much interest in anything else. Thank goodness, that is not true of all engineers. [Wirth, Conrad L., “The Southwest Leg,” Letters to the Editor, *The Washington Star-News*, June 2, 1973]

By then, Administrator Turner had retired a year earlier at the end of June 1972. After a long delay, former Nebraska Governor Norbert T. Tiemann took office as Federal Highway Administrator on June 1, 1973.

After winning election in 1966, Governor Tiemann adopted an activist role to deal with Nebraska’s fiscal problems. He worked with the State legislature to create a tax base that provided the revenue the State needed to function. He also secured approval to enter into bonded indebtedness to pay for road improvements, with the debt backed by motor vehicle license fees and fuel taxes. In addition, Nebraska undertook the first broad reorganization of the Department of Roads, issued the first bonds for highway construction, established a 20-year plan for expressway construction, initiated the first mandatory driver examinations and motor-vehicle inspection programs, and closed the Omaha Gap on I-80. He served a 4-year term before losing his reelection bid in 1970.

Administrator Turner, whose entire career had been with BPR, had been a traditional road builder. Governor Tiemann, a banker and politician, brought a new perspective to the role. He embraced the new philosophy of balanced transportation, with each mode doing what it did best. He made this perspective clear in his first speech, on June 18, 1973, to the Western Association of State Highway Officials. He said, “we have arrived at a point where we must reduce dependence on private cars in urban areas – particularly during the rush hours – and convince commuters to either form carpools or use public mass transit facilities.” Highway officials could no longer think of transportation modes as “independent entities, each with its own constituency and indifferent to the problems and the needs of the others”:

The point is, we must now think in terms of overall TRANSPORTATION planning, and the role of each mode in that plan. The modes cannot be competitive in our highly complex society of today—and tomorrow—instead, they must be complementary.

Facing Chairman Natcher

Chairman Natcher remained concerned about the District’s lack of progress on its Interstate freeways, as he made clear when Mayor Washington, Airis, and other officials testified on April 11 before his subcommittee regarding the District of Columbia Appropriations Act, 1974.

He began his comments on balanced transportation with a discussion of the origins of the Metro rapid rail transit system, a subject he had discussed many times before:

In 1955 I made the motion that started the rapid rail transit system in the city of Washington. The request for the District of Columbia's share for the metropolitan area transit survey came before this subcommittee. The cost of the survey was \$561,000 to be paid by the State of Virginia, the State of Maryland, and the District of Columbia. I sat next to the chairman of the subcommittee at that time, Louis Rabaut, who said, "This would be one of the biggest mistakes we have ever made. I won't make the motion." I said, "Mr. Chairman, I think you are wrong. We need to have a rapid rail system in Washington together with an express bus system along with an adequate freeway system." I made the motion and the District of Columbia's share was appropriated and paid. This is the subcommittee, Mr. Washington, that in 1969 appropriated the money that started the rapid rail transit system under construction. After that, we had the law suit [sic] halting freeway construction and the enactment of the 1968 and 1970 Highway Acts ordering a resumption of construction. I believe that the acts must be complied with. We were for rapid rail transit in 1955. I am for it today.

When the \$1.2 billion worth of rapid rail transit bonds, which are guaranteed by the Federal Government, come due the Federal Government will retire every one of them. Not a single one of them will be retired out of the fare box. They are guaranteed by the Federal Government and the Federal Government will have to pay off every one of them

Chairman Natcher was especially concerned about construction of the I-95/Center Leg Freeway behind the House Rayburn Building. It was, he said, "nothing but a disgrace," adding, "That is the only category you can place it in." Construction had been underway for 7 years:

All of the people working in the three House Office Buildings and the Capitol that drive in from the southwest freeway have seen 18 and 20 men, who work for the construction company that has the contract, standing on the curb each morning to see how the girls were dressed, standing there by the hour. We complained about the idleness of the contractor's employees and the delay in the completion of the project to Mr. Airis and he related the complaint to the contractor. The contractor wrote me a letter and said the reason for the great delay in the project was due to the fact that there were so many changes in the contract, trying to blame city officials.

He told Airis that "if every contract that you have the size of that one is going to take 7 years to complete, we ought to quit."

Mayor Washington replied, "I would agree," but according to the transcript of the hearing, neither he nor Airis explained the delay or promised that the contract would be completed promptly.

Chairman Natcher went through the history of the freeway controversies, once again inserting the documentation of letters and newspaper articles that he had inserted in previous hearing records and during House floor debates.

He asked Corporation Counsel C. Francis Murphy to send an update on what the city had done regarding the Three Sisters Bridge lawsuit to comply with the provisions of the Federal-Aid Highway Acts of 1968 and 1970, "and tell us whether or not an environmental statement for one thing has ever been prepared and submitted and just what has transpired." He also requested an update on the status of all the remaining freeway segments.

On May 12, 1973, Mayor Washington replied to Chairman Natcher's request. Mayor Washington began with the Three Sisters Bridge:

With respect to the legal and legislative matters which you inquired about, Mr. Murphy advises me that, in view of the fact that the Supreme Court has refused to grant a writ of certiorari, further litigation of the substantive issues involved in the lawsuit has been precluded.

Mayor Washington mentioned Chief Justice Burger's unusual comment about the possibility of congressional action to limit judicial review. He pointed out that the unsuccessful Federal-Aid Highway Act of 1972, with Section 139 designed to do just that, did not clear Congress. The House Committee on Public Works considered including the provision in the 1973 Act, but did not do so. "Absent such legislation, this project as well as all other interstate projects must be processed in accordance with the provisions of title 23 of the United States Code."

Mayor Washington then provided the status of the city's remaining freeways:

1. The south leg of the inner loop was part of the study report to the Congress in February 1970. In September 1972, a combined corridor and design public hearing was held. In preparation for the hearing, a draft environmental impact statement was prepared and circulated to concerned agencies. The Department of Highways and Traffic in cooperation with the Federal Highway Administration is now ready to submit the final environmental impact/4(f) statement to the Department of Transportation. Recommendations of the Department of Highways and Traffic are now being reviewed by the city council and my office prior to submission of the District's final design and location recommendations to the Department of Transportation.
2. The Three Sisters Bridge was placed under construction [in] October 1969 but activity was halted by court action in August 1970. Since the U.S. Supreme Court refused to hear the case, construction cannot be resumed until there has been compliance with the requirements imposed by the courts.
3. On the District of Columbia end of the bridge, the related project is the Potomac River Freeway portion of I-266. This segment was placed in a design status in 1969 with the concurrence of the Federal Highway Administration. The purchase of right-of-way recommenced and all properties have now been acquired between 31st Street extended and Key Bridge. Because of court actions the Department of Transportation has required additional environmental assessment studies leading to public hearings. In addition, a

Georgetown Waterfront Sectional Development Plan study was commenced on January 26, 1972. The study is being conducted in three phases. Phase I is a review of alternative freeway plans, development of compatible preliminary land use plans, and assessment of environmental impacts of the alternatives. Phase II and phase III of the study were designed to prepare a sectional development plan and program for the Georgetown waterfront area consistent with the selected alternative highway plan. The phase I report was published in November 1972. The District government is now preparing for public hearings required by title 23 and is utilizing phase I data in the preparation of appropriate public hearing documents. It is planned to schedule the public hearing for later this year. In Virginia, Interstate Route 66, between the Capital Beltway and the Theodore Roosevelt Bridge is now the subject of an intensive multidisciplinary study by the Virginia Department of Highways. The study is scheduled for completion in the fall of this year with the objective of final evaluation through the public hearing process at an early date.

4. Construction of the center leg of the inner loop has continued northward to Massachusetts Avenue and this portion is now scheduled to open in August of this year. The K Street overpass will be completed this fall. Completion of the remainder of the center leg, the covered section between H and K Streets and the temporary ramps northward to New York Avenue, is awaiting final environmental impact assessment. The final statement is scheduled to be submitted to the Department of Transportation before July 1. This project should be ready for advertisement this fall.
5. The segment of the east leg between interchange "C" and Barney Circle at Pennsylvania Avenue is nearing completion. The outbound section was opened to traffic on May 2. The inbound section will be opened to traffic this summer. Northeastward of Barney Circle, additional public hearings are required in order to advance this project to the construction stage. Experience with the conduct of such hearings has indicated the need for more definitive air quality analysis as part of the environmental impact/4(f) assessment. This is the principal cause for the delay of the hearings suggested in last year's statement. Preparation for a combined corridor and design public hearings [sic] is now underway with a hearing date anticipated for the fall of this year.

Mayor Washington added a paragraph on I-95:

With respect to I-95, the Maryland Department of Transportation embarked on a transportation alternative study in August 1972. Phase 2 of the study is examining five mixed-mode transportation alternatives. Four of the alternatives contemplate alignment tying into the proposed Industrial Freeway along New York Avenue in the District. The phase II analysis is now nearing completion and will be presented through a public meeting process in mid-June. A public hearing to consider any resultant highway recommendations will be scheduled as soon as practicable thereafter. [District of Columbia Appropriations for 1974, Hearings, Subcommittee on District of Columbia Appropriations, Committee on Appropriations, U.S. House of Representatives, part 1, pages 26-39]

When General Graham and other WMATA officials appeared before the subcommittee on May 2, Chairman Natcher briefly discussed the need for a balanced transportation system, dating to his 1955 motion. He then asked if General Graham still thought Metro construction would

cost \$2.980 million. General Graham said that “indications are pretty good, Mr. Chairman, that we can complete it for substantially that cost.” He thought the program was maybe \$35 to \$45 million over that estimate, but said, “It’s quite difficult to look down the road and see whether that is going to get any worse.”

Chairman Natcher pointed out that from the start, he did not think the final cost would be \$2.5 billion:

I said to you, and I still say to you this morning – and I hope I am just as wrong as I can be – that it’s going to cost you about \$4 billion to build this rapid rail transit system in the city of Washington and the surrounding metropolitan area. I was positive you couldn’t do it for your original estimate of \$2.5 billion. I am hoping now that you do stay within this present estimate of \$2.98 billion.

Next, Chairman Natcher asked if General Graham believed the \$1.2 billion in bonds, backed by the Federal Government, could be retired out of the farebox, or “do you agree with me, General Graham, that the Federal Government will pay every dollar of the \$1.2 billion worth of bonds?”

General Graham acknowledged that this was “a difficult question to answer.” The financial plan was based on assumptions about farebox revenue and ridership:

At this time we are prepared to stand by that financial plan, which says that not \$1.2 billion worth of bonds but approximately \$882 million worth of bonds can be repaid. If you will recall, about \$300 million was added in the form of an interest subsidy by the Federal legislation.

He cautioned that the WMATA board of directors “has indicated a willingness . . . to try to hold fares level.” The financial plan was based on the expectation that fares would go up as operating costs of the rail system increased:

If they take the same view on the rail system after we are in operation that they have taken on the bus system thus far, then there will have to be under present circumstances a subsidy from the local governments to make up that difference. [pages 939-942]

On May 14, Airis returned for additional hearings before the subcommittee. Airis, in his opening statement, included a status report on Washington area freeways, including a summary of those open and the Maryland transportation alternatives study. Of the 29.5 miles of freeway originally contemplated, a total of 10.8 miles had been completed:

These are the Theodore Roosevelt Bridge and portion of the Potomac River Freeway

(I-66) including the connecting E Street Expressway; the 14th Street bridges (I-95) including the new center bridge which was opened to use by express buses 2 years ago; the Southwest Freeway (I-95) including the northbound 12 Street Expressway and the southbound 9th Street Expressway; the Southeast Freeway (I-695) to the completed 11th Street Bridge over the Anacostia River; and the Anacostia Freeway (I-295)

Approximately 1.8 miles of the system are now under construction. These include the center leg freeway (I-95) between D Street SW., and Massachusetts Avenue NW, now scheduled for completion in August of this year.

The K Street structure over the center leg is the first contract in the portion between Massachusetts Avenue and New York Avenue. That is 40 percent complete.

A segment of the east leg (I-295) is under construction between interchange "C" and Barney Circle at Pennsylvania Avenue.

I should also mention that the outbound movement on that segment was completed and put into operation on May 2. The inbound will be finished sometime this summer.

He cited the court action delaying the Three Sisters Bridge and the study underway along the Georgetown waterfront. Design of the Potomac River Freeway (I-266), he said, was "tied to some extent to the resolution of the Three Sisters Bridge problem and, indeed, to the resolution of I-66 in Virginia."

The Department of Highways and Traffic's recommended alternative for the South Leg was construction of three 1,300-foot tunnels west of the Lincoln Memorial and under the northern neck of the Tidal Basin:

This plan can ultimately be converted into one long tunnel which will make the area west of the Tidal Basin fully usable as a park-visitor complex.

This can be accomplished at the time the requirements of the Clear Air Act of 1970 become effective. The facility as we have designed it, even with the two short sections of open, depressed portions, we felt can be justified from a park standpoint alone, as it turns back 4 acres of land that is now occupied by surface roads to the Park Service.

The city was "at the threshold of submitting a final environmental impact statement and the combined corridor and design recommendations to the U.S. Department of Transportation," subject to final review by the city council and Mayor Washington.

The East Leg of the Inner Loop north of Barney Circle to Bladensburg Road was in design status. "Work is now underway to assess the environmental consequences of this segment and to prepare for a combined corridor and design public hearing that is needed in view of past court orders on this project."

The remaining routes were "in a preliminary study status." The Federal-Aid Highway Act of 1970 had called for study of these routes, namely the North Leg (I-66), the Northeast-North-Central Freeway (I-95 and I-70S), and the upper end of the East Leg. Mayor Washington and Secretary Volpe had submitted their reports to Congress as required:

I should point out that the main difference in the system which was recommended by the Mayor, the Secretary of Transportation, and the City Council are [sic] that the North Central Freeway along the alignment of the B & O Railroad, was eliminated and a

substitute was made in the corridor of New York Avenue and the Penn Central Railroad, going past the Fort Lincoln development. We feel that it is a political decision and we support it. It will certainly be of great help to the city if it can be worked out with Maryland and something can finally be constructed.

Chairman Natcher returned to a subject he had raised earlier, namely construction of the Center Leg Freeway near the Rayburn House Building. He pointed out that the project had been underway for 7 years and that, according to Airis's statement, the completion date had changed from January 1973, the date provided in 1972, to August of the current year. It was, he reminded Airis, "nothing but a disgrace." He recalled the idle workers and the contractor's excuse about contract changes. He said that if this project was representative of projects in the District, "it certainly does not speak well for any that will be started in the future or those that are underway."

Airis responded by saying the "6 to 7 years is one heck of a long time." The city had dealt with the problem of the idle workers but "it probably has recurred to some extent." The project was nearly complete, subject to several claims filed by the contractors, some of which "we feel dubious about":

Nevertheless, this project is one of a kind. A project of this scope and size had not been attempted before with the air rights projects. We have probably the world's outstanding air rights project on the Labor Building alone. We had a very complicated reflecting pool that had to go over the Freeway, with all of the problems of waterproofing that go with it.

On the south end we have a HEW Building [Department of Health, Education, and Welfare] that also is an air rights project. The length of the tunnel structure is about two-thirds of a mile and it requires very complicated and very meticulous air ventilation for it to work properly. The visual problems that go with designing and take off [sic] inside a tunnel were imposed on the Department as a result of where this project was to be built and the manner in which it was to be built.

In addition to those, at a rather late date the Department had to accommodate the subway across the project at D Street, and the Metro works is not yet completed. Between D Street and E Street we have a Tax Court building under way, and there has been considerable discussion over a canopy to go across the freeway. All of these add up to a very, very complicated project. These are the principal reasons that this project had not been finished in the time that we would like to have accomplished it; that is, 3 or 4 years instead of 6 to 7 years. [District of Columbia Appropriations for 1974, Hearings, Subcommittee on District of Columbia Appropriations, Committee on Appropriations, U.S. House of Representatives, part 2, pages 862-874]

Later, Chairman Natcher launched into what the *Post* called "an off-the-cuff statement that lasted 15 minutes." He asserted his support for a balanced transportation system for the District, referred to his 1955 motion, and pointed out that the Subcommittee on Appropriations for the District of Columbia had not selected a single freeway, all of which were selected by the District in cooperation with BPR. Similarly, his subcommittee had not drafted either provision of the

Federal-Aid Highway Acts of 1968 or 1970 that had resulted in the freeway-subway impasse of recent years.

He recalled Chairman Rabaut's warning that the motion that launched the Metro rapid rail system was a mistake. "I didn't believe it then; I don't believe it today." However, he was concerned about the cost, recounting several exchanges with General Graham on the subject in recent years, including the discussion earlier in the hearing. He quoted General Graham, who was not present, as having said that he expected the system to be built within the \$2.98 billion projected budget, with only minor overruns at present:

Mr. Airis, one of these days – and you are going to live to see this day . . . when they are going to come back to this subcommittee and my friend, Mr. Myers, or one of these other members, will be chairman, and they are going to say, "Yes, it is going to cost \$4 billion."

When just for a change they start telling the truth about it, Mr. Airis, so the people in the city of Washington will have all of the facts, then they are going to say \$4 billion.

Now, Mr. Airis, I am still in favor of the Rapid-Rail Transit System.

He mocked Members of Congress who had called for WMATA to take over the private bus companies. "You know, they complained for several years about the operation of the buses. Certainly I am one of those members of this committee who believes we should have had better bus service in our Nation's Capital." He was just thankful that his colleagues did not want WMATA to take over Amtrak:

Now, Metro has taken them over, and at a cost of over \$100 million. What is the first thing they are saying to us? "Subsidy." They say it is going to be about \$6 million. Over the next 4 years it is going to be many times that amount.

That is in addition to the subsidy for transporting the schoolchildren. I am in favor of the school transit subsidy, which is in this bill now for about \$4 million. It has come up from a little over \$2 million to a little over \$4 million at the present time, and represents the difference between the 10 cents they pay and the regular 40 cents fare. Mr. Airis, as one member of the committee, I am in favor of making that payment. But I say to you on the record, I am not in favor of any \$6 million subsidy or for any amount in the future for the operation of the bus company, over and above the subsidy for the schoolchildren.

Then he reiterated his discussion with General Graham about the Federal guarantee of the Metro bond issuances. The bankers would not buy those bonds initially. "Because the fare box does not retire bonds." He had voted for the bill authorizing \$1.2 billion worth of bonds, backed by the Federal Government:

Mr. Airis, as I said in the beginning and I say to you again, as a matter of placing it in the record, that every bond will be retired by the U.S. Government. Not a single bond will be retired out of the fare box; not a single bond will be retired by the District of Columbia. They will all, under the guarantee made by the Government, be paid for by the Federal Government.

So, Mr. Airis, just as a matter of being truthful, decent, and honorable about these things, why don't they tell the truth to the people in the city of Washington. Down through the years you have read articles in the paper that are intended to sound good. Well, just for a change, don't you think it is time to start telling the truth to the people?

Mr. Airis, I am in favor of completing the system regardless of the cost, but at the same time I think we should tell the people the truth about the cost and the fact that the bonds cannot be retired out of the fare box.

As far as subsidy for the rapid transit system is concerned, that will be one of the major problems in 1976 or 1977 after it is completed. They will have to have a subsidy to operate it and they might as well start telling the people in the District of Columbia that that day is coming. If you want to start telling the truth about it, you ought to tell the people who pay the taxes what the situation is going to be.

The District would face many transportation problems in coming years, Chairman Natcher said, "and the best way to solve them, as we go along, is to just be honest and decent and tell the people the whole story":

You know that is the best way to live, Mr. Airis, the other way to live is to just say nothing, refuse to give all the facts and just color and distort them, and that is what has been going on for years.

Now is the time to start telling the truth about it

With what is going on in our Nation's Capital – the day will come, Mr. Airis, when the people in the city of Washington who pay their taxes, the ones who remain, are going to start saying, "Stop doing anything else in the District. Let's have something done for the District."

The transcript shows that at that point, Chairman Natcher and Airis had a discussion "off the record." [pages 895-899]

Jack Eisen asked General Graham about Chairman Natcher's comments. Graham denied not telling the truth about the cost:

"We'll build the rail system for \$3 billion if the President and Congress will get together on a program for controlling inflation," Graham told a reporter yesterday. "But we can't if prices continue to go out of hand as they have in [President Nixon's] Phase III" economic plan. [Eisen, Jack, "Rep. Natcher Opposed to Bus Subsidy," *The Washington Post and Times Herald*, May 15, 1973]

The *Post* took exception to Chairman Natcher's comments about operating subsidies for Metrobus. WMATA needed subsidies to avoid raising fares. "Certainly his opposition to a bus subsidy could spell serious trouble for Metrobus."

The editorial board had to concede that his complaint about officials not being honest about deficits was “not without foundation.” They had chosen their words very carefully. After explaining the comments by former Secretary Volpe and WMATA Chairman Fisher, the editors continued:

Metro officials have said that a stopgap bus subsidy will be essential until the combined bus and rail transit system is about to pay its own way. This is what apparently enraged Mr. Natcher – and what needs to be explained. First, despite Mr. Volpe’s good intentions in coming to the aid of Metro, his statement did not reflect the view of the system officials about the need for subsidy. In turn, Mr. Fisher’s response focused on how the subway-bus system would operate – not on how the buses would be financed until the subway is completed.

In short, a subsidy was needed. “This is what Metro officials should have said all along, and what city officials ought to be saying, too.” Any subsidy from the city would be part of the city budget, “and the city budget, like it or not, is a responsibility of Mr. Natcher. Mr. Natcher doesn’t like to be misled.”

For now, Chairman Natcher had made his point:

In fact, the debate should no longer be over whether a subsidy is needed to keep fares at their present levels, but whether the subsidies should be large enough to make fare *reductions* possible. Now that O. Roy Chalk and the other private bus owners have left, the opportunity for a forthright discussion of this course should not be lost in an attempt to placate Congress. [“Rep. Natcher’s Bus Subsidy Complaint,” *The Washington Post and Times Herald*, May 25, 1973. Italics in original]

The *Star*’s editors referred to his doubts about the cost estimate for constructing Metro, “and he may well be right.” He was, as everyone knew, “thoroughly irritated, with every justification, at the snail-paced progress of road-building in the city.” However, when it came to his opposition to subsidizing the bus system, “the gentleman from Kentucky could not possibly be more wrong.” Chairman Natcher and Metro officials disagree on whether WMATA and its supporters misled Congress on this point, but “nothing could be more fruitless” than trying to parse the debate:

What’s important is that the provision of the subsidies is vital to the public interest, and their inevitability was asserted clearly in the past on dozens of occasions

The Washington area is not alone in electing to subsidize transit. Virtually every other urban center in the nation has turned to the policy out of necessity, because the alternative was unacceptable.

That alternative involved increasing fares and reducing service, or both, to balance costs and income. “That, in fact, is precisely what occurred under private ownership” and that, in turn, was “what largely motivated the campaign for public ownership.”

The editors gave area officials credit for agreeing “to an equitable allocation of their own local funds – not federal funds – for this purpose of subsidizing bus service.” If Chairman Natcher refuses to appropriate the District’s share, the result “would surely result in another disruptive political confrontation in Congress that Natcher would be hard put to win, and which we trust he will not precipitate.” [“Natcher’s Doubts,” *The Washington Star-News*, May 18, 1973]

Awaiting the 1973 Act

On June 9, 1973, Mayor Washington proposed a \$1.1 billion construction program for the next 6 years, including \$400 million for Metro construction. The budget included funds for 19 miles of freeway projects that the city council had not yet approved. The city council was expected to take up one of the freeways, the South Leg of the Inner Loop Freeway, during the summer. [Scharfenberg, Kirk, “Mayor Seeks \$1.1 Billion in Construction,” *The Washington Post and Times Herald*, June 10, 1973]

In Maryland, the citizens’ steering committee in Prince George’s County, after a 10-month, \$675,000 study, recommended in June that the State drop plans to extend I-95 into the District of Columbia. Delegate Ann R. Hull, the committee chairwoman, announced the decision during a public hearing on June 16. While opposing the extension, the steering committee favored:

- Widen the Baltimore-Washington Parkway to six lanes;
- Designating the parkway as I-95 inside the Capital Beltway with eight lanes and building a connector road through Laurel between the parkway and I-95;
- Shift the proposed Metro line planned to run east of the University of Maryland to the west of the College Park campus along University Boulevard with a station near Byrd Stadium and its terminus moved to the existing interchange of I-95 and the beltway instead of at Greenbelt Road; and
- Adjust Metro’s line to Greenbelt, including a terminus north of the intersection of the beltway and the Baltimore and Washington Railroad tracks.

Only about 75 people attended the hearing in the university’s Tawes Fine Arts Theater. Jack Eisen reported:

Almost everybody who spoke favored improved transit and better commuter service on the area’s Baltimore & Ohio Railroad line; some favored the extension of I-95, and a larger number, like Mrs. Hull’s committee members, would eliminate the superhighway extension. [Eisen, Jack, “Panel Urges Md. To Drop Plan for I-95,” *The Washington Post and Times Herald*, June 17, 1973; Crosby, Thomas, “Transportation Alternatives Argued by Public,” *The Sunday Star and The Washington Daily News*, June 17, 1973]

On July 12, Secretary Hughes officially dropped Maryland’s plan to extend I-95 into the District of Columbia. Although the I-95 extension was a planned part of a Maine-to-Florida route, it “must be judged primarily in terms of service to the Washington Metropolitan area. This department,” he said, “has not been convinced of the need for extending I-95 south of the Beltway on any new alignment.” He was addressing the 60-member steering committee. He had previously rejected the alignment through the Northwest Branch Park, but now he also was

rejecting the alignment along the PEPCO power line. If the city proposed a joint public hearing on I-95 inside the Capital Beltway, Secretary Hughes said, “the department will not express a preference for extending I-95 south of the Beltway on the Pepco power line in any joint hearing.”

As Eisen reported, “In an action that seems sure to stir a new controversy, Hughes indicated support for a connector freeway to link I-95 with the Baltimore-Washington Parkway.” It was, Hughes said, “an important link” to prevent the Capital Beltway from being inundated with I-95 traffic bound to or coming from Washington.

In addition, Secretary Hughes endorsed the steering committee’s proposal on the Metro line into Prince George’s County. He also supported a network of bicycle paths serving the University of Maryland campus, improved commuter service on the Baltimore and Ohio Railroad line, and additional bus service. He called for a study of express bus service along New Hampshire Avenue (State Route 650) and feeder bus service to the railroad line and Metro stations.

Eisen called the decision “a crippling and perhaps fatal blow” to the I-95 extension, and “a major victory for community groups that have been fighting since the mid-1960s against plans to extend the road inside the Beltway.” Including the District’s segment, known as the Northeast Freeway between the District line and the North Central Freeway. With Maryland having previously killed the State’s segment of the North Central Freeway south of Silver Spring, Secretary Hughes’ decision effectively ended the North Central Freeway north of New York Avenue. Or, as James Dilt wrote in *The Baltimore Sun*, the scrapping of I-95 killed the extension into the city “for all practical purposes.” [Eisen, Jack, “Md. Vetoes I-95 Extension Into District,” *The Washington Post and Times Herald*, July 13, 1973; Dilts, James D., “Plan for I-95 leg to D.C. Dropped in favor of better mass transit,” *The Baltimore Sun*, July 13, 1973]

During this period, efforts to develop I-66 in Virginia were running into roadblocks. A telephone poll, conducted at random in Arlington, Fairfax, and Prince William Counties, showed strong support for construction of I-66 inside the Capital Beltway. The results were revealed at a public workshop on I-66 on March 13. The *Post* summarized the results:

The survey while revealing overall support for I-66, also showed how much stronger opposition to the freeway is in the inner suburbs that I-66 would cut through.

Residents beyond the beltway, who expect I-66 to speed their trips into the District, approve the road by 81 per cent. Only 64 per cent of residents living inside the beltway approved it.

While the strongest opposition – 38 per cent – came in North Arlington, the weakest opposition – 8 per cent against, 92 per cent approval – occurred in Fairfax’s Centreville district, far beyond the beltway.

Along with 70.8 per cent support for I-66, 92.7 per cent supported Metro, 83.1 per cent supported more express bus lanes, and 62 per cent supported construction of the Three Sisters Bridge connecting Arlington and the District, according to the survey.

Asked about the area's most needed transportation improvement, respondents identified bus service (37 percent), Metro (26 percent), upgrading existing roads (15 percent, and combining bus and rail (8 percent). Four percent did not think any transportation improvements were needed.

The nonprofit Bureau of Social Science Research had conducted the telephone poll of 1,027 residents for the consultants preparing the court-ordered environmental review of I-66. The bureau said the margin of error for the poll was 3 percent. The study was one of several VDH had begun in the fall of 1972 after losing the court case.

Rival groups saw the results as supporting their perspective. Paul Alwine, of Fairfax County Citizens For I-66, said, "It shows that more people favor the highway than are against it." Harrison Mann of Citizens for I-66 was convinced the results would, "without a doubt," lead to approval for construction.

By contrast, Emilia Govan issued a statement pointing out that when asked to list, in order of personal preference, their choice of transportation, the ranking was: Build Metro, reserve more express bus lanes, improve existing highways, and build I-66. More people favored Metro (92.7 percent) than favored I-66 (70.8 percent). [Mathews, Jay, "I-66 Back in Va., Survey Shows," *The Washington Post and Times Herald*, May 14, 1973; Brosby, Thomas, "I-66 Gets Backing in Survey," *The Washington Star-News*, April 9, 1973]

In June, the Govans, on behalf of ACT, accused Fugate of attempting to blackmail the Fairfax County Board of Supervisors. A week earlier, Fugate had said that a proposed 12-mile high-speed toll road along the Dulles International Airport access road could be built only if I-66 were constructed. With the board already on record in support of the toll road, the Govans wrote to urge Chairman Jean Packard and the board to "spurn any Virginia Highway Department tactic to force the Board to support I-66." Fugate's statement was, in the Govans' view, "but another of many pressure tactics being used by [VDH] to force construction of this highway.

In our view, his statement . . . amounts to a form of 'blackmail' on the Fairfax Board to induce the board to exert influence in favor of construction of I-66." The Govans told Packard that the toll road might help alleviate a "serious transportation problem in the growing Reston-Vienna-Herndon corridor," but urged Fairfax County not to try to solve its problem by creating one in Arlington County.

Chairman Packard, in response, said any attempt to use the toll road plan to force the board to support I-66 was "disgraceful." She planned to ask Fugate for clarification.

Although Fugate was not available for comment at press time, a spokesman assured reporters that the commissioner was expressing only his personal view that without I-66, the toll road would not collect enough tolls to support itself. "I'm certain he's not engaging in any blackmail."

Previously, ACT had written to Governor Holton to warn him that VDH was exerting "improper and intolerable pressure" on the consulting firm leading the environmental review of I-66. The issue involved VDH's decision to deny the firm's request to extend the contract beyond the

completion date of September 18. VDH official A. K. Hunsberger told a reporter that the department was insisting that the consultant complete the study by the September 18 contract date. No “extenuating circumstances” justified an extension. In the absence of an extension, project manager Fowler said the consultants had “quickened the pace of the study.” ACT and other I-66 critics opposed that “quickening,” which they feared could reduce citizen input and result in an inferior product. [Crosby, Thomas, “ACT Charges Blackmail,” *The Washington Star-News*, June 28, 1973; Mathews, Jay, “Arlington I-66 Foes Charge Blackmail,” *The Washington Post and Times Herald*, June 29, 1973]

The five-member Arlington County Board was not on record on I-66. Two board members, Everard Munsey and John W. Purdy, were ACT members who intended to support an anti-highway resolution when it was offered, possibly in the fall. One board member, Dr. Kenneth M. Haggerty, had said he would oppose an anti-freeway resolution. The two other members, Joseph L. Fisher and Joseph S. Wholey, had not taken a position.

Nevertheless, the board had written to the consulting firm to express concern that the tight schedule “may provide too little time for the careful consideration of alternatives” to the eight-lane freeway. Fisher and Dr. Haggerty had supported sending the letter, but said they did so only because the consulting firm was rushing them to provide data on county parkland affected by the highway. Munsey and Purdy thought the deadline should be extended 3 to 6 months because the consultants needed more time to determine the impact of strong air quality controls, like parking surcharges, EPA had proposed for the area.

Given the deadline, project manager Fowler was philosophical. “At some point, you have to say this is our best judgment of what the real world situation would be and go forth.” [Mathews, Jay, “Arlington Board Hints At I-66 Stand,” *The Washington Post and Times Herald*, July 28, 1973]

Completing the 1973 Act

The conference to resolve differences between the House and Senate versions of the legislation proved contentious, with the conference report delayed until July 27. The final bill retained the District and Virginia measures, including exemption of the District’s Interstate System from the 1893 Act on a permanent system of highways. The conference report included the provision on the North Expressway in San Antonio, as well as project-specific provisions on the Alaska Highway, Route 101 in New Hampshire, I-93 through New Hampshire’s Franconia Notch, construction of the Highland Scenic Highway in West Virginia, and relocation of U.S. 25E through a tunnel in Cumberland Gap National Historical Park

However, the section that most affected the freeway battles in the Washington area was one that had emerged from similar controversies in Boston. Governor Sargent and Secretary Altshuler had promoted a way to cancel controversial urban Interstate highways and use the funds instead for the Governor’s ambitious but unfunded transit plans. Section 135 of the Federal-Aid Highway Act of 1973 provided that mechanism. It allowed a Governor and local governments in an urbanized area to submit a joint request to withdraw a controversial Interstate segment. The Secretary of Transportation could withdraw approval of the segment if it was not essential to completing a unified and connected Interstate System and the State provided assurances that it

did not intend to construct a toll road in the traffic corridor. The left-over Interstate mileage could be used to designate an Interstate segment in any other State.

With the Secretary's approval, responsible local officials could advance nonhighway public mass transit projects, including construction of fixed rail facilities and the purchase of passenger equipment, including rolling stock for any mode of mass transit, or both. The Federal share of the nonhighway transit project was limited to the cost of the withdrawn route as shown in the 1972 ICE, but the funds would come from the general Treasury, not the Highway Trust Fund. The Federal share would be the same as for projects advanced with UMTA funds or up to the limit of substitution funds.

As Governor Sargent had anticipated, this provision contained the solution to the dilemma of mayors and local officials in Boston and around the country. They did not want to build a controversial Interstate segment, but they also did not want to lose the hundreds of millions of dollars in economic stimulus that would come their city's way if the segment were built. Before enactment of the 1973 Act, the only way to retain the funds was to resist citizen anger about building the highway segment. Now, after several years of debate in Congress, mayors and local officials could have the funds, but use them for popular nonhighway mass transit, including rail rapid transit, instead of the unpopular freeway.

The Senate took up the conference report on S. 502, the Federal-Aid Highway Act of 1973, on August 1. In introducing the bill, Senator Bentsen said:

Mr. President, this conference report represents months of very arduous work by both the Senate and House conferees I can report that the conference held to reconcile the differences between the two bills was a very difficult one We were in conference over 2 ½ months. The conferees met 29 times, and the House and Senate conferees met among themselves several times to try to work out solutions to our most difficult problem, the question of diverting money from the highway trust fund for the use of transit. I believe we have emerged with a strong bill which preserves the essence of the Senate position on the highway bill.

He explained that conferees had begun with 110 points of difference in the two bills, but had resolved all but 13 of them by May 17, and those 13 remained unresolved for the remaining 2 months. On the key issue of the Muskie-Baker amendment, Senator Bentsen said:

From May 17 until we reached a final agreement on July 18, there were no fewer than 10 proposals and counterproposals to reach a solution on this question. I believe that the solution that we ultimately reached was an eminently fair one In the compromise, Mr. President, I believe both sides have given substantially. The Senate gives up rail mass transit from the trust fund until fiscal 1976, although general fund moneys can be exchanged for trust funds for these purposes in both 1974 and 1975. The House gives up its absolute insistence that no funds shall be diverted from the trust fund for nonhighway related projects.

As for mass transit operating subsidies, Senator Bentsen said:

Faced with the unrelenting opposition of the administration, which indicated that operating subsidies in any form would invite a veto, and the skepticism [of] the House conferees, the Senate conferees agreed to drop operating subsidies from the bill.

He said the bill did not ignore transit, but included \$3 billion in additional funds for transit capital grants, as well as the breakthrough agreement on the Muskie-Baker amendment. The Interstate transfer provision also could benefit transit. In the Senate bill, any funds left over following a withdrawal “would have gone to the account of the urban area to be used for highways or any mode of mass transit.” The conference agreement modified the Senate bill to prevent the use of Highway Trust Fund revenue from withdrawn Interstates for mass transit. The “traded” funds would remain in the Highway Trust Fund for highway purposes, while an equal dollar amount of general Treasury funds would be made available for the transit project. [“Authorization of Appropriations for Construction of Certain Highways—Conference Report,” *Congressional Record-Senate*, pages 27194-27196]

The Senate approved the bill 91 to 5. Senators Biden, Case, Proxmire, Williams, and William V. Roth, Jr. (R-De.) voted against the bill. [page 27221]

On August 3, Representative Wright called up the conference report on S. 502 for consideration. The report, he said, “has been hammered out on the anvils of mutual compromise with the other body.” It was “a good bill, a sound bill, and undoubtedly the best bill that could have been achieved under the circumstances.” Conferees encountered “strong feelings” from their Senate counterparts, but also “conciliatory and harmonious” gestures. “I think it is impossible to say that either House predominated more than the other.” He urged a resounding vote of approval. [“Conference Report on S. 502,” *Congressional Record-House*, August 3, 1973, page 28089]

The House approved the legislation, 382 to 34, on August 3. [page 28110]

The 1973 Act Becomes a Law

For President Nixon, July and August 1973 were difficult months. On July 16, 1973, Federal Aviation Administrator Alexander P. Butterfield, a former deputy to top White House aide H. R. Haldeman, revealed to the Senate Select Committee to Investigate Campaign Practices (also known as the Senate Watergate Committee) the existence of a taping system in the White House. As *The New York Times* explained, “The recordings became the immediate focus of the central investigation by the Senate panel into the role President Nixon may have played in the Watergate cover-up.” [Naughton, James M., “Surprise Witness,” *The New York Times*, July 17, 1973]

On August 6, Vice President Agnew revealed that he was under investigation by the United States Attorney in Baltimore, George Beall, for possible violations of criminal law. Initial media reports indicated he was suspected of extortion, bribery, and tax evasion related to a kickback scheme involving contractors, architects, and engineers employed on Maryland projects. He denied the charges (but would resign on October 10, 1973).

On August 13, the *Times* reported that Federal investigators were planning to go through the records of the Vice President’s 2 years as Governor of Maryland and those of Jerome R. Wolff,

Agnew's appointee as chairman-director of the Maryland State Roads Commission. "In the new phase of the far-reaching investigation – which has all Maryland agog even though the state had become all but accustomed to seeing its political figures face criminal charges – Mr. Beall appeared to be concentrating on highway construction and engineering contracts." [Waldron, Martin, "Agnew Term as Governor Under U.S. Scrutiny Today," *The New York Times*, August 13, 1973]

(Wolff, after being confronted by Beall's team, became a cooperating witness against Vice President Agnew and during the trials of other Maryland officials. Wolff, as it turned out, had kept meticulous records – including diaries and detailed notes on his day-planner – of the schemes he helped to carry out and the kickback payments made. Due to his cooperation, Wolff was never charged with a crime. He lost his engineering license but it was restored in 1978 on a legal technicality and worked as a hydraulics consultant for the rest of his working life. He died at the age of 98 in 2014. [Kelly, Jacques, "Jerome B. Wolff, former state roads chief who testified in case against Agnew, dies," *The Baltimore Sun*, August 30, 2016]

Later that day, as President Nixon signed the Federal-Aid Highway Act of 1973 (P.L. 93–87), standing behind him were Senators Randolph and Baker, Secretary Brinegar, Federal Highway Administrator Tiemann, Urban Mass Transportation Administrator Frank C. Herringer, who had taken office in February, and freshman Republican Representative Hanrahan, whom the White House President wanted to aid in his reelection campaign. In a formal statement, he called it "a significant extension and reform of the Federal highway program," which he described as "the strong tradition of Federal-State cooperation in building American highways." This was, however, more than just a highway act:

One of its most significant features is that it allows the Highway Trust Fund to be used for mass transit capital improvements. This landmark provision is one that I have urged for some time and one that I recommended with special emphasis in four different messages to the Congress this year. Under this Act, for the first time, States and localities will have the flexibility they need to set their own transportation priorities. The law will enable them at last to relieve congestion and pollution problems by developing more balanced transportation systems where that is appropriate rather than locking them into further highway expenditures which can sometimes make such problems even worse.

He highlighted "the \$3 billion I requested for funding the Urban Mass Transportation Act" and the provision allowing State and local officials "to substitute mass transit projects for certain urban Interstate highway segments which are controversial and non-essential." He also pointed out that the 1973 Act earmarked urban highway funds for areas with populations over 200,000 and "cuts red tape and improves efficiency by giving more authority to the States and by increasing planning funds." He added:

I am pleased that the bill also designates several links of the Interstate network forming a coast to coast route as the Dwight D. Eisenhower Highway, a fitting tribute to the father of the Interstate highway system.

He regretted that the bill exceeded his budget proposals and included “a number of special narrow categorical grant programs at a time when it is particularly important for us to trim back on the budget and the bureaucracy.” However, he recognized that funding levels had been cut back from earlier versions “and I am gratified that certain other elements, particularly an anti-impoundment provision and mass transit operating subsidies, were eliminated from the final version.”

Overall, he said, the legislation reflected “a spirit of constructive cooperation between the Congress and the Administration and I am confident that the Act can be properly administered so as to not violate my commitment to a non-inflationary budget.” He concluded:

The legislation I sign today represents an important forward step for our country, not only in providing for better and more balanced transportation, but also in related fields such as environmental protection, highway safety, energy conservation, and community development. I am gratified that it includes important proposals to which I have long given high priority.

I sign S. 502 with confidence that it will contribute significantly to the strength of our American economy and the quality of American life.

Informally, the President had observed that, “the dullest thing in the world is to spend a day on a superhighway.” He added, also informally, “Let me say after these two smog alerts we’ve had in Washington, let’s have more mass transit.”

After the ceremony, Secretary Brinegar and Melvin R. Laird, the former Defense Secretary who was now the President’s counsellor for domestic affairs, briefed reporters. Secretary Brinegar said:

Both in terms of dollars and numbers of separate programs, this is the single most important piece of legislation that the Department of Transportation has been called upon to administer.

He highlighted the urban transportation features of the 1973 Act, which gave “urban transportation planners immediate flexibility in the uses of the Highway Trust Fund dollars that are allocated to urban areas.” He said:

No longer must these planners think “just highways.” Now they will be able to consider trade-offs to such alternatives as buses, exclusive bus lanes, and rapid rail systems. We do not see such flexibility as a “busting of the trust,” but rather as a sensible broadening of its uses. Approximately \$2½ billion is authorized for this “flexible” urban usage.

In closing, he praised the conference committee that had drafted the final bill “in a spirit of constructive compromise.” The result was “a good bill—one that will go a long way toward providing our Nation with the balanced, total transportation system that it needs.”

Reporter Lou Cannon, writing in the *Post*, said:

Two emerging and related administration themes dominated the ceremonies and announcements surrounding the bill signing. One is the developing White House praise for Congress on non-Watergate issues, the other the reiteration of administration belief in its own ability to govern.

Cannon quoted Laird as saying during his briefing, "It is important to bear in mind that we are moving forward on the domestic agenda for America." [Cannon, Lou, "Nixon Signs \$22 Billion Highway Bill," *The Washington Post and Times Herald*, August 14, 1973; "President Signs Highway Bill With provisions for Mass Transit Assistance," *The New York Times*, August 14, 1973]

Senator Randolph issued a statement after the ceremony:

We deliberated the provisions of this bill in conference for more than 120 hours. The result is a measure that responsibly meets transportation requirements in large cities, small towns and rural areas.

Enactment of the 1973 Act gave Jack Eisen an opportunity to summarize the impact of the law on the District freeway controversies. The only provision specifically about the District of Columbia's freeway network was Section 135 (titled District of Columbia):

None of the provisions of the Act entitled "An Act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities", approved March 2, 1893 (27 Stat. 532), as amended, shall apply to any segment of the Interstate System within the District of Columbia.

Eisen summarized the "stunning judicial setback" the city received in 1968 when the U.S. Court of Appeals blocked the Three Sisters Bridge and the North-Central Freeway because they did not comply with the 1893 law. The ruling resulted in the "notwithstanding" provision of the 1968 Act, itself blocked in court.

Now, the 1973 Act exempted the District's freeways from the 1893 law's restrictions. The provision "eliminates the legal basis for the court order in 1968 that brought the city's interstate freeway program to a virtual halt, except for projects that were then well underway."

A "little noticed provision" of the 1973 Act renewed the congressional mandate for construction of the Three Sisters Bridge and other controversial freeways. Section 110 required the Secretary to remove from designation any Interstate segments that did not meet deadlines (July 1, 1974, to notify the Secretary that the State intends to construction the segment, and July 1, 1975, for submitted a schedule of expenditures), but added:

This subsection shall not be applicable to any segment of the Interstate System referred to in section 23(a) of the Federal-Aid Highway Act of 1968.

By exempting the District from the requirement, Eisen explained, "it leaves in force a section of the 1968 Highway Act that says the District and federal governments must build the Three Sisters Bridge and other unbuilt interstate freeway links in the city." The impact would not be

immediate because the freeway projects needed administrative or judicial resolution. “The new legislation could make it harder for the city to drop any projects it might want to cut from the road system and make it harder for citizens to sue to keep those projects from being built.”

A spokesman for the House Committee on Public Works called the provision a “housekeeping action” to maintain the status quo and avoid complications:

The District is proceeding in good faith to meet the congressional will and this leaves the 1968 Act intact We did not want to complicate or change the mandate. Obviously this is a sensitive matter.

Title III of the 1973 Act was titled the Urban Mass Transportation Act of 1964, which authorized funds to:

. . . assist States and local public bodies and agencies thereof in financing the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in urban areas and in coordinating such service with highway and other transportation in such areas. Eligible

facilities and equipment may include land (but not public highways), buses and other rolling stock, and other real or personal property needed for an efficient and coordinated mass transportation system.

Section 301(a) of Title III increased the Federal share for projects eligible under the 1964 Act to 80 percent, up from two-thirds. However, Eisen pointed out that the 1973 Act, while increasing the Federal share to 80 percent for Federal-aid transit projects around the country, left the Federal share for Metro at two-thirds, as provided for in the National Capital Transportation Act that “continues to contain the old formula.” WMATA Comptroller Lowe estimated that if Congress increases the Federal share to 80 percent for Metro, local governments would save an estimated \$142 million in local matching shares for the \$3 billion system.

Eisen advised readers that the next test of the District’s freeway plans would be the report by the city council’s transportation committee on the South Leg Freeway. The committee expected to issue its report in September.

Eisen recalled the “volatile political and social” debates over the past decade:

The issue has spawned angry confrontations between citizens and officials, demonstrations at road project locations and a series of successful legal challenges to construction plans.

Initially, opposition to the roads came from an unusual coalition of lower- and middle-income city dwellers whose neighborhoods would be bisected by the freeways and conservationist groups worried about preserving the unique monumental character of the capital city.

The chief villain of both groups was the suburban automobile commuter. “White men’s roads through black men’s bedrooms” was one rallying cry.

More recently, however, city dwellers have been joined by Maryland and Virginia suburbanites who also oppose freeways in their neighborhoods.

For example, plans for I-66 in northern Virginia were on hold by court order pending an environmental review. “If the freeway plan is abandoned, it would reduce and possibly eliminate any justification for the Three Sisters Bridge.”

The Maryland Department of Transportation had “dropped plans for extending I-70S and I-95 inside the Capital Beltway, making the District’s long-planned North Central Freeway a road to nowhere. It, too, has been dropped”:

Instead, Maryland has proposed to build a connecting road between its existing segment of I-95 and the Baltimore-Washington Parkway near Beltsville, north of the Beltway

Under Maryland’s new plan, the Washington end of the parkway would be widened from four to six or eight lanes and would be brought up to freeway standards as already authorized by federal law. It would be linked to a new Industrial Freeway paralleling badly congested New York Avenue NE within Washington.

This would provide a continuous route for Washington-bound I-95 traffic in Maryland and permit the District to comply with requirements of the 1968 highway law.

Eisen added, that, “Opposition to the parkway widening already has cropped up in Prince George’s County.”

Based on information from Airis, Eisen wrote:

As the District’s interstate freeway program now stands it has only the 14th Street and Theodore Roosevelt bridges, the Southwest-Southeast Freeway south of Capitol Hill, the Anacostia Freeway and an isolated fragment of the Potomac River Freeway in Foggy Bottom in current service.

At this point in the freeway battles, the city’s program “leaves the residential northern half of the District without any active freeway proposals.” An accompanying map depicted the North-Central Freeway (I-70S) and the Northeast Freeway (I-95) as “Eliminated.” The South Leg was shown as “Proposed” and “Plan pending.” The Industrial Highway was identified as “Crosstown North Leg tunnel is proposed but planning is dormant.” Eisen explained, “Nothing currently is being done about the proposal for a crosstown freeway that would carry Three Sisters Bridge traffic and tunnel under K Street NW to connect with the proposed new extension to the Baltimore-Washington Parkway.”

Outside the city, the map depicted Maryland’s plan for a freeway connecting I-95 east of the Capital Beltway with the parkway, depicting the link as “Proposed to connect with widened parkway into D.C.” In Virginia, I-66 was identified as “Court-ordered restudies under way on

I-66 and Three Sisters Bridge.” [Eisen, Jack, “Congress Renews Mandate on Three Sisters Bridge,” *The Washington Post and Times Herald*, August 21, 1973]

Post editors lauded Congress for including the provision in the 1973 Act that allowed cities to withdraw controversial Interstate segments and substitute rail rapid transit. The editorial picked up on Eisen’s theme:

The Act renews the congressional order of 1968 that we essentially complete a freeway system that was proposed 27 years ago by the D.C. Highway Department’s consultants, J. E. Greiner Company of Baltimore and De Leuw Cather & Co. of Chicago. The consultants concluded their 1946 recommendation for an “inner loop” and radial freeways into the suburbs with the statement that there was “little likelihood that Washington will ever need a rail rapid transit system.”

In contrast, of course, “we are building a rail rapid transit system now. It is the biggest public works project in the country”:

We also know a great deal more than we did in 1946 about the disruptions and social costs of urban freeways (which inevitably breed more freeways), about the health hazards of automobile-caused pollution and about the essential coordination between transportation planning and urban planning in general. Because of this new knowledge, there is also a great deal more public interest in and opposition to the conventional highway builders’ wisdom that freeways ought to run *through*, rather than *to* urban concentrations. Yet, Congress continues to insist that we stick to this outdated wisdom and build the Three Sisters Bridge to bring Virginia’s I-66 into the city, and a radial freeway to connect with Maryland’s I-70S and I-95 and that we complete the “inner loop,” of which one portion, the Southwest Freeway, has already been built.

Due to court orders, the 1973 Act would not “immediately unleash the bulldozers” for the Three Sisters Bridge. As a result, “those lyric little rocks in the Potomac, just upstream from Key Bridge, known as the Three Sisters, are likely to be left in peace for a while.” Other proposed freeways, including the Industrial Freeway, were not ready for construction.

The exception was the South Leg Freeway, the “innocent name” for the six-lane freeway the city wanted to build, partly in tunnels, across the Lincoln Memorial grounds and the Tidal Basin:

To contemplate what this surgery will do to the green center of the Nation’s Capital requires little imagination on the part of anyone who has ever walked, breathed and tried to enjoy nature (to say nothing of history) along a six-lane freeway. The justification for this vandalistic operation is, in part, that there is now far too much automobile traffic on the Mall, particularly along Independence Avenue as it winds its way across the Tidal Basin.

Many of those cars would disappear, the editorial explained, with the construction of Metro and a visitor center at Union Station north of the Capitol. “But that does not answer the Highway Act’s mandate – completion of that 1946 ‘system.’”

The *Post* recommended that the city and NPS “desist from digging up the Mall . . . until the future of all the other mandated projects is decided”:

We are optimists. We still hope that in time and with full respect for the law, Washington’s planners can come up with something better than the old Greiner-De Leuw Cather “system,” something that will satisfy environmental sense, traffic needs and the highway-minded congressmen. [“Washington and the 1973 Freeway Act,” *The Washington Post and Times Herald*, August 27, 1973]

The Center Leg Freeway Opens – In Part

In early August, the *Star* alerted readers to the imminent opening of the Center Leg Freeway, the eight-lane, 1.4-mile section of I-95 that would connect the Southwest-Southeast Freeway and Massachusetts Avenue and Third Street, NW. The freeway was depressed for its entire 16-block length, running in a tunnel under the reflecting pool in front of the Capitol building. It passed under the new Labor Department and U.S. Tax Court building which was still under construction in the air rights over the freeway.

The District had intended to open the freeway on August 8 but “finishing touches” delayed the opening until later in the month. By then, most of the parking spaces provided on a temporary basis on the freeway would be eliminated:

Airis said the Center Leg opening “is a fine thing for the city. It will provide a more efficient means for traffic to get into center city and it will relieve traffic on several side streets.”

. . . . The Center Leg has been planned to connect with the New York Avenue Industrial Freeway, which has yet to be designed or built, but work is continuing on an uncompleted three-block section of the Center Leg between Massachusetts and New York Avenues. [Crosby, Thomas, “Center Leg Freeway to Open This Month,” *The Washington Star-News*, August 8, 1973]

Although Airis had expected the Center Leg Freeway section of I-95 to open in August, the opening had been delayed until October, when the *Post* reported:

Scheduled to open at the end of this month, the freeway comes with rebroadcast machines, saturable core reactors, impact attenuators and other gadgetry, all of which contributed substantially to its cost of \$70 million. It is 1.4 miles long and, yard for yard, the city’s most expensive road.

The unique features included in the freeway made it highly sophisticated:

Sophisticated equipment will permit emergency vehicle radios to transmit and receive while in the tunnel, as well as end interruptions to civilian radio programs when autos go underground.

Impact attenuators at abutments were designed to absorb vehicle impacts to minimize injuries. A city traffic engineer, George W. Schoene, said:

It's the latest concept in preventing personal injury. Damage will still be done to the vehicle, but any serious injury to the driver will be minimized. When the car hits the attenuator, the black cells with mushroom-like tops pop one at a time, spraying water everywhere.

Safety features included "the preprogrammed saturable-core reactors that dim or brighten lights gradually as motorists enter and leave the highway-tunnel." According to the city, the tunnel included 7½ miles of fluorescent light using 3,865 tubes. Twenty-eight chain-driven fans would keep the air in the tunnel clean while closed-circuit televisions and other features would allow officials to monitor traffic. "The lighting," Schoene said, "is the most unique in the city. Most of the other systems are 220 volts, this system is 2,000 volts."

Reporters viewed the exhaust system:

Visitors to the blower room of the tunnel were dwarfed by the big exhaust and fresh air fans that are part of the ventilation system.

There are 28 chain-driven fans in the facility, 16 to pull in fresh air and 12 for exhaust.

In addition, the tunnel featured:

Two closed-circuit televisions, 44 emergency phones, four cameras (eventually there will be 30 cameras located at the access and exit ramps from portal to portal) and a computer hooked to detectors on the roadway will be able to count vehicles, measure speed and give all this information to a control center

Airis said, "Some commuters will use it, but it is designed to provide a better way of moving service delivery vehicles around downtown street traffic." He said, "The main objective of the facility is to remove traffic from the surface of the mall area in front of the Capitol . . . part of a long-range park service and planning commission plan."

Despite all these benefits, "it will create problems for others," namely those parkers who would have to make new arrangements for their vehicles. [Wells, Major C., "Sophisticated District Freeway to Open Soon," *The Washington Post and Times Herald*, October 14, 1973]

Finally, on November 5, 1973, at 11:20 a.m., Mayor Washington cut a red ribbon stretched across the two northbound lanes and the freeway was opened. He said the connection would "add viability to the inner city" by taking traffic off side streets.

The first person to drive through the tunnel was 25-year old Spec. 5 1.C Lennie Firsina, who told a reporter, “Actually, I’m making history because of a mistake. I took a wrong turn back there.”

One problem was that even though hazardous cargo was prohibited, several gasoline trucks used the tunnel on the first day:

“That’s our first headache,” said Stuart Cross, a District traffic engineer. Trucking associations and bulk plants for oil companies will be told to route hazardous cargo vehicles around the freeway, Cross said.

Hundreds of trucks used the freeway yesterday and Airis said, “That’s what we wanted. The freeway is designed to take trucks out of the Mall area and off residential streets.

Construction to link the Center Leg Freeway with New York Avenue was underway with the goal of completion in 1974. [Crosby, Thomas, “Yep, It’s Open . . . At Last,” *The Washington Star-News*, November 6, 1973]

The Flow of Oil

From October 6 to 26, 1973, Egypt and Syria were at war with Israel. Known as the Yom Kippur War or the Arab-Israeli war, the battle ended with a decisive victory by Israel.

On October 17, 1973, 11 Middle East nations, all members of the Organization of Arab Petroleum Exporting Countries (OAPEC), proclaimed a progressively increasing monthly cut in exports of oil to the United States and other nations perceived as unfriendly to Arab goals. The cut soon became a boycott until March 1974. The OAPEC and the Organization of Petroleum Exporting Countries (OPEC), which included non-Arab countries, used the boycott as an opportunity to raise the price of their oil after the boycott.

Historian Daniel Yergin described the reaction:

What better recipe could there have been for panic prices than the oil supply situation in the memorable final months of 1973? The ingredients included war and violence, cutbacks in supply, embargoes, shortages, desperate consumers, the specter of further cutbacks, and the possibility that the Arabs would never restore production. Fear and uncertainty were pervasive and had a self-fulfilling effect: both oil companies and consumers frantically sought additional supplies not only for current use but also for storage against future shortages and the unknown. Panic buying meant extra demand in the market. Indeed, buyers were scrambling desperately to get any oil they could find. “We weren’t bidding just for oil,” said one independent refiner who did not have a secure source of supply. “We were bidding for our life”

The age of shortage was at hand. The prospect, at best, was gloomy: lost economic growth, recession, and inflation Moreover, the United States, the world’s foremost superpower and the underwriter of the international order, had now been thrown on the defensive, humiliated, by a handful of small nations

In the United States, the shortfall struck at fundamental beliefs in the endless abundance of resources, convictions so deeply rooted in the American character and experience that a large part of the public did not even know, up until October 1973, that the United States imported any oil at all. [Yergin, Daniel, *The Prize: The Epic Quest for Oil, Money & Power*, A Touchstone Book, 1993, pages 615-616]

Journalist and author David Halberstam described the immediate impact:

The American economy and the American people were completely unprepared for the change. The squandering of oil was built into the very structure of American life. Everyone had become dependent upon cheap energy. Almost all American cars, for example, had automatic transmissions, which used 25 percent more gas than the old manual transmission. With many American brands of car, if a buyer wanted a manual shift, he had to say so in advance so it could be ordered from the factory. By the time of the Yom Kippur War, 85 percent of the job holders in America drove to work every day –

and as a result, public transportation had atrophied. Suddenly gas was expensive and scarce. In a short time it went from 36 cents a gallon to 60. People lined up for hours at every service station. There were fights as drivers tried to jump the line, reports of bribes, and even one murder committed in a struggle for gas. In the neurosis created by the boycott there was a new craze called “topping off,” which was an attempt to keep one’s tank perpetually filled. At one service station in Pittsburgh a motorist came in and bought 11 cents’ worth, and the attendant spit in his face. The Boston police department came up with an interesting statistic: The number of cases of automobile arson went up dramatically, from 149 to 330, in the year when the gas prices jumped; most of those torched cars were gas guzzlers. In the first quarter of 1974 the use of gas dropped

7 percent in the United States instead of rising the normal 7 percent. [Halberstam, David, *The Reckoning*, William P. Morrow and Company, 1986, pages 458-459]

In an address on November 7, 1973, President Nixon advised the Nation that the energy crisis was “a problem we must all face together in the months and years ahead.” The Federal Government, he said, would take several steps, such as preventing industries and utilities that use coal from converting power plants to use oil, reducing the number of flights as well as the supply of heating oil for homes and offices by 15 percent, reducing the temperatures in government buildings, and speeding up the licensing and construction of nuclear power plants. He asked State and local officials to take appropriate steps, including:

How many times have you gone along the highway or the freeway, wherever the case may be, and seen hundreds and hundreds of cars with only one individual in that car? This we must all cooperate to change.

Consistent with safety and economic considerations, I am also asking Governors to take steps to reduce highway speed limits to 50 miles per hour. This action alone, if it is adopted on a nationwide basis, could save over 200,000 barrels of oil a day – just reducing the speed limit to 50 miles per hour.

In addition, the President indicated he would direct his staff to work with Congress on emergency energy legislation. It would make daylight savings time a year-round provision, relax regulations to balance environmental interests with energy requirements, impose energy conservation measures such as restrictions on working hours for shopping centers, authorize full production in Naval Petroleum Reserve #1 (Elk Hills, California) and the exploration and further development of other Naval Petroleum Reserves, including Naval Petroleum Reserve #4 in Alaska, and give the Federal Government authority to reduce highway speed limits throughout the Nation as well as the power to adjust the schedules of planes, ships, and other carriers.

These were all short-term measures. For the long term, he outlined measures his Administration would take, such as launching a campaign to free the country from reliance on oil from other parts of the world. He was convinced the Nation had the reserves, as well as the technology to meet this goal. He cited the Manhattan Project and President Kennedy's pledge to put a man on the moon in 10 years:

Let us unite in committing the resources of this Nation to a major new endeavor, an endeavor that in this Bicentennial Era we can appropriately call "Project Independence." Let us set as our national goal, in the spirit of Apollo, with the determination of the Manhattan Project, that by the end of this decade we will have developed the potential to meet our own energy needs without depending on any foreign energy sources.

Let us pledge that by 1980, under Project Independence, we shall be able to meet America's energy needs from America's own energy resources.

Yergin said of Project Independence:

To call this plan ambitious was a considerable understatement; it would require many technological advances, vast amounts of money, and a sharp swerve away from the new road of environmentalism. His staff had told him that the goal of energy independence by 1980 was impossible, and suggested that it was thus silly to proclaim. Nixon overruled his staff. For energy was now both a crisis and high politics.

Nixon fired his energy czar, John Love, and replaced him with Deputy Treasury Secretary William Simon:

Telling the Cabinet about Simon's new post, Nixon likened it to Albert Speer's position as armaments overlord in the Third Reich. Had Speer not been given the power to override the German bureaucracy, Nixon explained, Germany would have been defeated far earlier. Simon was somewhat discomfited by the comparison. Nixon further said that Simon would have "absolute authority." But that was one thing he surely did not have in fragmented, contentious Washington. [*The Prize*, pages 617-618]

In coming weeks, the country would endure drastic shortages of gasoline, turn to carpooling, give increased emphasis to mass transit and the bicycle, and see freeways as encouraging wasteful use of oil.

What To Do About The South Leg

Robert M. Kennan, Jr., age 35, died on October 29, 1973 of an embolism after gall bladder surgery. Kennan, who lived on Broad Branch Road, NW., east of Connecticut Avenue not far from Rock Creek Park's Beach Road, was general counsel of the National Wildlife Federation and a trustee of the Committee of 100 on the Federal City at the time of his death.

Obituaries in the *Star* and *Post* described his work in the anti-freeway battles. In the Washington area, he had provided his legal expertise to lawsuits blocking the Three Sisters Bridge, Potomac River Freeway, and extension of I-66 in Arlington County. At the national level, he had been involved in efforts to keep Interstate highways out of Florida's Big Cypress Swamp and the Sandia Crest Mountains in New Mexico. His most recent case involved litigation to open FHWA's NEPA procedures to public view. One of his lawsuits had in prompted FHWA, which wanted to exempt 1,000 highway projects that had been initiated before NEPA from its requirements, to require compliance.

The *Star's* obituary was titled:

Robert Kennan, 35, Dies;

Opponent of Freeways

He was survived by his wife and son Alexander. ["Robert Kennan, 35, Dies; Opponent of Freeways," *The Washington Star-News*, October 31, 1973; "Robert M. Kennan Jr., Wildlife Federation Aide," *The Washington Post and Times Herald*, October 31, 1973]

On November 14, 1973, the city council's transportation committee circulated its draft report on the South Leg of the Inner Loop Freeway. The committee had considered proposing to abandon the project, but rejected that idea:

We have . . . reached the conclusion that auto traffic through the south leg corridor cannot as a practical matter be eliminated or diverted and, hence, must be provided for. Not to build the south leg would result in environmental degradation in the project area.

The report recommended that the South Leg Freeway include more tunneling than the Department of Highways and Traffic had proposed. The reported stated that, "If any roadway is to exist – under any set of assumptions . . . the necessity for a roadway seems clear – a subsurface one is clearly preferable."

Eisen indicated that the report called for more tunneling than previously proposed:

As revised by D.C. highway department planners, the new proposal calls for putting about 48 per cent of the length of the 1 ½ mile, six-lane road in tunnels at the outset, with provisions for complete tunneling later. The original plan called for shorter tunnel sections with the balance in depressed ditches out of sight of most park visitors . . .

The freeway project would include the removal of Independence Avenue, now a busy commuter artery, in West Potomac Park, to be replaced by local park roads.

Director Airis indicated the South Leg Freeway would include reserved lanes for buses.

The plan was consistent with the plan that Transportation Secretary Volpe and Interior Secretary Morton had agreed to in May 1971, but Eisen added:

By a touch of irony, the project is being proposed for approval at a time of a major shortage of petroleum-generated energy and when public policy emphasizes mass transit over highways. [Eisen, Jack, "Inner Loop South Leg, Tunneling Urged," *The Washington Post and Times Herald*, November 15, 1973]

On November 17, Delegate Fauntroy issued a statement denouncing the planned project. "It's a silly way to spend \$110 million," he said. "This is a road that nobody needs and nobody wants. It would be enormously destructive to the entire area."

He acknowledged that he had supported the South Leg Freeway as a four-lane tunnel in 1968 when he chaired the city council's transportation committee. Now, he said, the proposal was "much worse" than the earlier plan, in part because "conditions have changed dramatically since then." He explained, "In view of the energy crisis, the last thing we need to do is to encourage new freeways."

Three other council members from that earlier period also assailed the new proposal. Former Chairman Hechinger pointed out that the freeway was intended to handle increased downtown traffic generated by I-66 in Arlington, the Three Sisters Bridge, and a Potomac River Parkway in the Canal Road corridor. All three projects, he pointed out, were stalled and probably would never be built. Hechinger thought that if the city council decided to advance the freeway, it should at least hold a public hearing on the project.

Former Councilwoman Shackleton pointed out that, "Without the Three Sisters Bridge and the other roads, this freeway makes no sense." Feinberg, Lawrence, "\$110 Million Road Project Is Assailed," *The Washington Post and Times Herald*, November 18, 1973]

Councilman Tedson J. Meyers, a member of the transportation committee, had voted against the report in a 2 to 1 vote. President Nixon had nominated Meyers, 43 years old, in January 1972 to fill the seat held by former Councilman Yeldell, who had resigned on November 30, 1971, to become Director of the District Department of Human Resources. Because Meyers, like Yeldell, was a Democrat, his appointment had not changed the political balance of the city council. Meyers was, however, white, thus changing the racial mix. Meyers, who took the oath of office in March 1972, was a communications attorney with the firm of Sullivan, Beauregard, Meyers, and Parkson. He and his wife live with their two children, ages 4 and 2, at 1828 Wyoming Avenue, NW., in the Adams Morgan neighborhood.

Meyers issued a nine-page minority report opposing the freeway and urging the city council to set a date for a public hearing. The goals of the freeway, his report stated, were unclear. He said, "The Environmental Impact Statement clearly admits that no survey has been taken analyzing the

source of traffic and its destination” along the proposed route. “We have only the projections of the proposing agency. There is very little – if any – balance of data.”

In the absence of a traffic survey, Meyers had taken a 2-hour helicopter ride a few days earlier to monitor Friday morning traffic. “For a good part of that time, we just hovered at about 500 feet and took a long look.” He used a stop watch to measure traffic flow per minute. He observed that “a relatively small percentage of the traffic flowing onto Independence Avenue arrives in this city over the interstate freeway source [Theodore Roosevelt Bridge] for which I-695 is proposed as a relieving link.” He explained, “It appears that the largest source of south or southeast bound traffic entering the center city from the west in the morning rush is not the I-66 interstate highway at all [Theodore Roosevelt Bridge], but Rock Creek Parkway.” His estimate was that the parkway provided “at least 50 percent” of westbound traffic on Independence Avenue.

In short, “There is no showing of need” for the South Leg as planned. “Thus, as an urgently needed connection between I-66 and I-295, the case for the South Leg Freeway is by no means clear,” he said. “We should demand more proof.”

In his view, the flow of the largest traffic volumes, from Rock Creek Parkway, could be eased with a few interchanges and overpasses to reduce crossroad delays. Further, the coming of Metro was another reason for delay because until its impact on traffic was known, the city could not say with certainty that additional freeways were needed. “Moreover,” he said, “the immediate fuel shortage, and the poor long-range prospects for the petroleum sources, suggests that now is not the time to build another freeway.”

Councilman Rockwood H. Foster, whom President Nixon had nominated to the council on September 21, 1972, was noncommittal. Foster was a former foreign service officer and member of the city’s board of education who lived in a Georgetown condominium at 3047 West Lane Keys. He had not read Meyer’s report. “I’ll have to wait and see what happens” when the city council meets on November 19 to decide what to do. [Eisen, William A., “South Leg Freeway Decision Postponed, *The Washington Post and Times Herald*, November 19, 1973; “Civic Leaders Protest Plans for the South Leg,” *The Washington Star-News*, November 19, 1973]

The city council had been expected to add the project to its agenda for November 19 and 20. However, Chairman Nevius decided on the evening of November 18 to remove it from the agenda. He took the action in concurrence with the Rev. Moore, chairman of the transportation committee. Moore said the delay was appropriate to permit “further deliberations,” although he did not explain how they would be conducted. Chairman Nevius explained, “The decision was made sometime Thursday to take it off the Tuesday agenda. Several people have injected new thoughts on the plan, and we want to look into it more deeply.”

Vice Chairman Tucker thought that instead of considering the South Leg Freeway, the council should take an overall look at freeway plans. In that way, the council could decide which should be killed.

Councilman Foster was disappointed by the postponement. If given a chance to vote, he told a reporter, he might vote against the freeway.

Despite the decision to call off the vote, about 50 people gathered in the wide hall outside the city council's chamber on November 19 to protest the South Leg Freeway in front of local television cameras. They had been summoned by Hechinger, who had invited many familiar names, including Sammie Abbott, Marion Barry, Jr. (then chairman of the Board of Education),

Reginald Booker, Grosvenor Chapman, Julius Hobson, Angela Rooney, and former council members Polly Shackleton and Stanley J. Anderson. Helen Leavitt, author of *Superhighway-Superhoax* was there (Eisen said of the book that it "has become a textbook for freeway fighters across the land").

Eisen described the protest:

They were black and white, Georgetowners and ghetto dwellers and a sprinkling of suburbanites, people of affluence and others of modest means, joined together in a cause that perhaps above all others has unified Washington civic leaders Nothing else, except threatened increases in bus fares that were opposed by many of the same people, seemed to excite so much attention.

A series of court decisions and governmental actions killed some of the freeway projects and put others in cold storage. As a cohesive group, the antifreeway coalition fell apart . . .

As antifreeway rallies go, the whole affair yesterday was rather subdued and could prove to be anticlimactic. For the freeway foes already had won a tactical victory.

The victory was the city council's postponement of the vote.

Hechinger, who had supported the freeway plan in 1968 as a victory for anti-freeway forces, said "there is no longer a reason to assume that the D.C. recommendations of the 1960s" were valid in the 1970s in view of Metro construction, current gasoline shortages, and growing air pollution. Freeways such as the South Leg Freeway were going to destroy Washington. "The time to put this on the shelf is now."

Anderson said the South Leg "may be obsolete by the time it's finished with the trend taking place in the country today as a result of the energy crisis."

Several protesters, Eisen reported, said "the road should be killed as a useless monument to a disappearing age of automobile commuting." As for those Virginia and Montgomery County commuters who favored the freeway, they should use transit:

The bluntest comment on the road project was voiced by veteran civic activist Hobson, who is suffering from a currently arrested case of spinal cancer. Getting out of his wheelchair and standing erect, Hobson said of the road: "To hell with it – we don't want to see it built." [Elsen, William A., "South Leg Freeway Decision Postponed," *The Washington Post and Times Herald*, November 19, 1973; Eisen, Jack, "Antifreeway Campaigners Reassemble," *The Washington Post and Times Herald*, November 20, 1973

“Civic Leaders Protest Plans for the South leg,” *The Washington Star-News*, November 19, 1973]

In an editorial, the *Post* agreed with the decision:

Much more thought is needed on all these points [raised by Meyers] before giving a go-ahead to dig up the Mall on the basis of outdated studies and questionable assumptions. The council should take a fresh look at all freeway plans, not in light of what looked right even five years ago, but what will meet the latest traffic needs and environmental considerations. As we have said previously, we continue to believe that, in time and with full respect for the laws that still bind this city’s ability to act, Washington’s planners can come up with more satisfactory answers to the region’s transportation problems. [“Freeways Again,” *The Washington Post and Times Herald*, December 1, 1973]

Members of the city council were not impressed by the anti-freeway rally. They saw it as a prelude to political fights that would erupt if home rule legislation pending in Congress was approved, with the result being elections for the city’s leaders. “The people,” Vice Chairman Tucker said, “ought to understand the nature of some of the attacks.”

Referring to the statements by former council members Anderson, Hechinger, and Shackleton, the Reverend Moore said, “It’s a sort of warmed-over crowd that came down here to deal with warmed-over issues left over by them.” He and Chairman Nevius noted that the three former members had supported the South Leg link not that long ago.

Hechinger could not be reached for comment, but former Councilwoman Shackleton acknowledged that she would like to run if an elected council were approved under the home rule legislation. However, she denied that political ambition had anything to do with her statements at the rally:

Whether home rule or not home rule, I think we would have gone ahead with this [freeway] issue because it is one we have all been involved in. If they want to call it political, everything is political; it’s the name of the game.

She pointed out that the 1968 plan that the three former members had supported contained more freeways than she supported, but they did so to free the funds to get Metro construction underway:

As John Hechinger said at the press conference, time have changed since 1968. We have air pollution problems and a fuel crisis that we didn’t have then. It just doesn’t make any sense to build more freeways. [Eisen, Jack, “Attacks on City Council Held ‘Political,’” *The Washington Post and Times Herald*, November 21, 1973]

Post editors commented on the change in attitude:

Nary a local official had said the word aloud in some time, and little wonder – for nothing in umpteen years has managed to set off as much united community clamor as the mention of *freeways*. But, sad to say, the word was back in circulation last week, as was

the old familiar core of vocal antifreeway crusaders. Subject of this latest alert was a revived plan for a proposed superhighway, known technically as Interstate Route 695 and less affectionately as the South Leg of the Inner Loop Freeway.

Recalling that the history of the route dates to the 1960s “or maybe even back to 1946,” the editors explained that what had brought it before the city council was “the question of approving a design, which has been dubbed ‘Plan A (modified),’ and which has yet to be seen in model form.”

They praised Councilman Meyers for his insight into the need for the freeway:

Having monitored the traffic flow from a helicopter on two recent mornings, Mr. Meyers found reason to believe that the largest flow of traffic – from Rock Creek parkway – might easily be improved with a few interchanges and overpasses “costing far less than \$111 million” needed for the South Leg.

The editors agreed with Councilman Meyers that now, in the midst of an energy crisis was “not the time to build another freeway.” The city council should take a fresh look at the need for the South Leg Freeway “before giving a go-ahead to dig up the Mall on the basis of outdated studies and questionable assumptions.” The editors concluded:

As we have said previously, we continue to believe that, in time and with full respect for the laws that still bind this city’s ability to act, Washington’s planners can come up with more satisfactory answers to the region’s transportation problems. [“Freeways Again,” *The Washington Post and Times Herald*, December 3, 1973, italics in original]

On December 29, Mayor Washington wrote to Chairman Moore of the transportation committee to rescind approval of the South Leg of the Inner Loop Freeway. He did not ask the city council to kill the project, only that the project “not go forward at this time.” His primary stated reason for withdrawing support was concern about disruption to the park area during the Bicentennial:

Among the issues that have been raised during Council consideration is whether the project can be completed in time for the bicentennial observance. I must report that it is not now possible to give such an assurance for the whole project.

The first phase of the freeway project, the tunnel under the Lincoln Memorial grounds might “under tight scheduling” be completed by January 1, 1976, but Mayor Washington was uncertain even of that schedule. “It is vital that no part of this area be torn up by construction during this period, if that can be avoided.”

Concern about Bicentennial visitors was, Mayor Washington wrote, fortuitous because “it will provide an opportunity to consider other issues which have arisen recently which could affect the South Leg project.” The energy crisis and EPA’s air quality requirements were on his mind:

We can expect major shifts of persons from automobile use to mass transit because of transportation strategies which we must follow in order to meet air quality standards and other environmental considerations.

He ordered Director Airis “to explore, in consultation with interested federal agencies, possible surface road improvements” in the park.

The *Star*’s article on the letter contained a heading over the title asking:

Death of Freeway?

One “council source” said that Mayor Washington’s letter “kills what was already a dead issue with the Council.” Since Chairman Nevius had postponed consideration of the South Leg Freeway on November 20, the city council had not taken any action on the South Leg Freeway. Chairman Moore said, “The best way to describe where that freeway issue sits now is in limbo.”

Councilman Meyers called Mayor Washington’s letter “a step backward in the right direction.” Former Councilwoman Shackleton said, “It looks like the end of that one. It’s good news. The citizens have accomplished their purpose.” ECTC Chairman Booker also was pleased. “We’re glad he dropped it,” but he doubted the stated reasons, saying “we think it’s mainly for political considerations, with home rule impending. He wants to make himself attractive to voters and sees tremendous opposition [to freeways] in the black community as a political reality.” [Eisen, William A., “Mayor Drops Support for Freeway Leg,” *The Washington Post and Times Herald*, December 30, 1973; Braeden, David, “Mayor Orders South Leg Delay,” *The Washington Star-News*, December 30, 1973]

(Part 10 will discuss the pending home rule and the desire to appeal to voters.)

Star editors, writing on January 3, 1974, were not happy about Mayor Washington’s letter, calling it “regrettable.” His argument was “at least an arguable basis for reversing his prior pro-construction position.” Under the circumstances, completing it before the Bicentennial was unlikely. As a result, “it is prudent to put the whole thing in deep freeze.”

The editors, however, gave Mayor Washington little credit for ensuring the park would not be torn up when visitors arrived in 1976:

There is, of course, a further reason why any tears shed by the mayor on this occasion are of the crocodile variety: The anti-freeway forces had threatened to make a political issue of the West Potomac Park freeway in the District’s forthcoming local election campaigns – and indeed city council members already were back-pedaling from their own previous positions of support. Given that scenario, it is unlikely that Mayor Washington is unhappy to see the issue neutralized.

What galls us, though, is how thoroughly this project has been made the victim of an emotional wave of generalized anti-freeway sentiment.

After all, highway builders had not designed the plan; it was proposed by NPS officials. “Among its harshest critics today are former city council members who not so long ago had supported its construction.

As for Mayor Washington's instruction to the Department of Highways and Traffic to explore surface roadway improvements, "there is virtually nothing of consequence in that context to explore." The editors concluded:

A plan of potential benefit to the city has been allowed to slip down the drain, and it's too bad.

The title of the *Star* editorial was "End of the Road."

The *Post's* editorial board, which had abandoned the newspaper's long-time advocacy for freeways, began its editorial:

Score one for Washington's vigilant and vocal anti-freeway brigade: You won't have the South Leg to kick around anymore.

It agreed with Mayor Washington's stated reason for abandoning "this long-planned desecration." If his "political antennae" had something to do with it, "we can only say that it is an excellent example of how the right to elect our local government ought to affect the decisions made in city hall." Nevertheless, his decision "should not be attributed solely to political considerations":

It is a recognition that this city needs to take a fresh look at all freeway and transportation plans, not in light of what looked right even five years ago, but what will meet the latest traffic needs and environmental considerations

We continue to believe that, in time and with full respect for the laws that bind this city as well as the desires of its voters, Washington can come up with satisfactory answers to the region's transportation needs. ["Freeways – And Political Inroads," *The Washington Post*, January 7, 1974]

(In 1974, the *Post* removed *Times Herald* from its name and returned to its original name, *The Washington Post*.)

On January 14, 1974, the city council voted to shelve plans for the South Leg Freeway for an indefinite period. "Without one word of debate," Eisen reported, the city council acted after Chairman Moore of the transportation committee repeated Mayor Washington's words.

The impact of the decision was unclear because, in theory, the city council could revive the freeway it was shelving only at this time. [Eisen, Jack, "D.C. Council Shelves Plan For Freeway," *The Washington Post and Times Herald*, January 15, 1974; "Council Shelves South Leg," *The Washington Star-News*, January 15, 1974]

In Virginia, I-66 Moves Forward

The parallel battle in Virginia over I-66 continued as the entrenched opposition pursued every option to force the entrenched VDH to kill the Interstate freeway inside the Capital Beltway.

Even the plan to provide at least \$1 million for park improvements as mitigation for construction of I-66 drew criticism. The freeway would require acquisition of five park parcels totaling about 22 acres. Compensation for that parkland might be more than the total acreage and the projected \$1 million. Just weeks before the deadline for the consultant report, however, Chairman Munsey of the Arlington County Board, said, "I wish they'd give us those kind of [park] funds directly rather than trading them for a miserable road."

The idea that highway officials would find substitute parkland alongside I-66 prompted questions about whether such parkland would be usable. ACT's James Govan said, "It would be like picnicking next to I-95. Who wants to?"

Nevertheless, Charles H. Russell of Citizens for I-66 said that highway officials were "not going to short-change the citizens of Virginia." Referring to the State slogan, he added, "Virginia is for lovers, and what that means is lovers of beauty." [Mathews, Jay, "I-66 Park Fund Termed Both Benefit, Bribe," *The Washington Post and Times Herald*, September 1, 1973]

Two weeks before the deadline, a public opinion poll conducted by the Bureau of Social Science Research for the consultant study reported on public attitudes in the District of Columbia about transportation. The poll, a companion to the earlier study of northern Virginia residents, suggested that a plurality of District residents (37.6 percent) favored construction of I-66 in Virginia, while 17.3 percent opposed it and 55.1 percent said they did not know or care about I-66.

However, the new survey revealed that for District residents, I-66 was not a high priority. Over 60 percent of the 284 residents surveyed had not heard about I-66 or the Three Sisters Bridge, and 24 percent had never heard of the Metro rapid rail system. Only 2 percent of District residents said road improvements were most important, while 72 percent put bus and rapid rail transit at the top of their priority list.

According to the *Post*:

The 102-page report on the public opinion survey . . . looks at attitudes on the long delayed highway by seemingly every imaginable population group: liberals, moderates and conservatives; bus riders and automobile drivers; those living inside the Beltway and those outside the Beltway. Although nearly every group polled produced a majority or plurality in support of the highway, liberals, bus riders and those living inside the Beltway were the least enthusiastic about I-66.

In northern Virginia, 58.6 percent of those polled "said they would or probably would switch to buses or rapid rail transit if those forms of public transportation were improved to their satisfaction."

The Govans claimed the results was "not valid." Emilia noticed that "people who never heard about I-66 were asked to express an opinion." People who are unconcerned about the highway, she pointed out, were more likely to favor it. James said, "If the poll means anything at all, it means that the public has made a clear and overwhelming choice in favor of mass transit."

Because of the small sample size, the bureau said the results could be off by as much as 10 percent. [Mathews, Jay, "D.C. Citizens' Support for Rte. 66 Lukewarm," *The Washington Post and Times Herald*, September 14, 1973; Crosby, Thomas, "I-66 Project Found Unknown to Many," *The Washington Star-News*, September 13, 1973]

Howard, Needles, Tammen and Bergendoff missed Virginia's deadline for the environmental report and the deadline of October 1 imposed by Senator Scott's amendment to the Federal-Aid Highway Act of 1973. Project manager Fowler told reporters he knew of no penalties for missing either deadline, but thought the report could be completed by the end of October. [Crosby, Thomas, "I-66 Ecology Study Deadline Missed," *The Washington Star-News*, October 3, 1973]

The U.S. Department of Transportation, according to a spokesman, also acknowledged that as a result of the delay in Virginia, it would miss Senator Scott's deadline for completing its review by December 31. ACT praised the Federal officials for not trying to meet the statutory deadline. If they had tried to do so, James Govan said, "There would be just that much less time for public reaction" to the EIS. The *Post* pointed out:

Although the Scott amendment sets out strict deadlines for various stages of a court-ordered highway review, it provides no penalties if the deadlines are not met. [Mathews, Jay, "Late Report Delays Action on Inside-Beltway I-66 Leg," *The Washington Post and Times Herald*, October 6, 1973]

On November 16, about 2 months late, Virginia released the consultant's 400-page draft EIS. In the *Post*, reporter Jay Mathews summarized the options studied:

- (1) The base case, the existing transportation system plus Metro and some exclusive bus lanes;
- (2) The transit option, more bus lines to Metro stops;
- (3) The highway option, essentially I-66 with some other road improvements;
- (4) The multi-mode/new facility option, a combination of the first three options; and
- (5) The multi-mode/road improvements options, a combination of the first two options with widening of some other roads or partial construction of I-66.

The report stated:

The evaluation of the alternatives shows that I-66 would be of significant benefit to both users and nonusers traveling within the corridor. However, the other options also would have significant benefits.

Although the report, as Mathews put it, found "significant benefit" from I-66 if constructed, it painted a "dark picture . . . of I-66's air pollution, destruction of scarce parkland and 'major disruptive impacts' in Arlington County." I-66 would cut travel time in half and reduce traffic on the George Washington Memorial Parkway and many streets in the District. "Its beneficial impact on local streets is most significant in Falls Church, where I-66 adjacent to the city would serve as a bypass for through trips."

The report also noted the results of the opinion survey. “Community sentiment as measured by the community attitudinal survey indicates a consensus in favor of constructing I-66.”

By contrast, Mathews observed:

Yet notations of the road’s disadvantages appeared far more frequently throughout the six-pound mass of maps, graphs and colored charts that made up the impact survey.

The highway would improve accessibility, but “would result in more heavily congested conditions” than any option except one (the present situation plus Metro). “Street intersections adjacent to highway interchanges would experience congested conditions due to the large numbers of turning movements that would occur.” The highway would produce significantly larger noise impacts than the other options, except no-build. “Air pollution impacts – in terms of both emissions and ambient concentrations – are predicted to be higher for the highway option than for any other option” and would “have significant deleterious impact on the lands in the vicinity of the I-66 facility.” With reduced energy consumption now a national priority, the report said that mass transit options, minus I-66, would produce the highest energy savings.

The report also considered whether the coming of Metro would eliminate the need for I-66:

Analyses . . . indicate that the construction of the Vienna Metro line generally will absorb the growth of radially oriented travel demand if I-66 is not built.

However, automobile use would not decline, with congestion on other roads continuing during peak periods if I-66 were not built.

The report stated that I-66 should not be built unless the Three Sisters Bridge was built:

The additional river capacity is required to accommodate the traffic which would use I-66 and the roadways connecting to I-66 and I-266 (a spur connecting I-66 to Three Sisters) as currently envisioned.

Mathews considered the report “at least a limited victory” for ACT, an assessment that ACT shared. Emilia Govan said, “I’m delighted. I had hoped the study would show that mass transit can do the job, do it better than I-66 and with fewer adverse social and environmental impacts, and that’s what it seems to show. [Mathews, Jay, “I-66 Report Mixed,” *The Washington Post and Times Herald*, November 17, 1973]

By a 4-1 vote, the Arlington County Board adopted a resolution expressing “clear-cut opposition” to I-66, describing the route as “seriously detrimental to the welfare of the county.”

The crowd of about 100 citizens cheered the vote. The only dissenter, Dr. Kenneth Haggerty, would be replaced on January 1, 1974, by Ellen Bozman, who had campaigned against I-66.

The vote took place at a hearing where 50 speakers addressed the board. Only four favored construction of I-66. “Most speakers,” according to the *Star* account, who opposed the extension “warned about excessive noise and air pollution from the freeway and urged instead that more

mass transit be provided in the corridor where the I-66 segment is planned.” [“Arlington Board Votes ‘No’ on I-66,” *The Washington Star-News*, December 5, 1973; Shaffer, Ron, “Arlington Board Votes Against I-66,” *The Washington Post and Times Herald*, December 5, 1973]

VDH held a week of public hearings on I-66, beginning December 17 in the 700-seat ballroom of the Ramada Inn in Rosslyn at 1900 North Fort Myer Drive. The hearings were to begin each day at 8 a.m. and, with breaks, end at midnight or after 3:00 a.m. Those asking to testify were assigned days and times. According to VDH, about 240 speakers and organizations had been scheduled, with individuals assigned 15 minutes and organizations given 30 minutes.

For example, a Federal planner who had “waited for months to speak at the final scheduled public hearing on the extension of I-66” was assigned 15 minutes on December 19 at 3:30 a.m. “It’s very disappointing. I believe the state could do better in scheduling the speakers. I may just mail my speech in.”

Ashton C. Jones, Jr., of Citizens for I-66 said the late-night scheduling was “unfortunate,” but declined further comment. Jim Govan of ACT was more open:

I’ve never heard of such a thing; it’s just ridiculous. What working person is going to show up at a public hearing at 2 a.m.? To me this is a way of the highway department saying, “We don’t care whether you come or not.” [Shaffer, Ron, “Late Night Hearing Set On I-66,” *The Washington Post and Times Herald*, December 12, 1973]

Before the proceedings, Citizens for I-66 held a news conference to make the point that their group represented thousands of people, while the antihighway forces consisted basically of individuals. Spokesman John Hoerner said, “Any two housewives can get together and say ‘we’re for clean air’ or something like that.” In response, Emilia Govan told reporters, “That’s just ridiculous.” Both groups claimed about 1,200 dues paying members.

The first day included 22 speakers against the highway and seven in favor. The *Post* described the first day:

A week of nearly nonstop public hearings on the proposed extension of Interstate Rte. 66 through Arlington got under way yesterday with generally restrained presentations by factions for and against the highway despite their violent clash of convictions.

As expected, prohighway people stressed the need for a faster route from the outlying suburbs to the District of Columbia, and those against the highway extension said it would provide for a far less efficient use of energy than would mass transit development.

The feelings of speakers did occasionally “boil over,” as when Sammie Abbott addressed the hearings:

“This hearing should be held in an insane asylum,” speaker Sam Abbott screamed at the dozen highway department officials and consultants sitting somberly before him. In light of the energy crisis, Abbott yelled, “it would be insane to consider the slightest increase in the use of the automobile.”

Abbott, for years the area's most vocal freeway foe, was thanked for his presentation by chairman Jimmie H. Singleton, an adviser to the highway department, and gavelled to silence after he berated the highway officials for failing to take up his invitation for questions.

Emilia Govan criticized the highway officials for not providing adequate notice of what she considered a rushed hearing. She also charged that VDH had prejudged the outcome in favor of the "multimode option." She argued that if VDH chose that option, the highway officials would build I-66 and wait for others to provide the transit option that might never materialize.

She added that contrary to supporters' claim that commuters on I-66 would save 30 minutes, the savings would be more like 15 minutes, about the same as for transit with less pollution and energy consumption.

To prove her point about prejudging the outcome, she submitted letters that Virginia Secretary of Transportation Wayne Whitham had sent informing two Arlington residents that barring a court order, VDH would build I-66. She told the hearing:

We have evidence that the Commonwealth of Virginia has made a decision to build I-66 before considering the views expressed at the court-ordered public hearing and before the final impact statement has been prepared.

Whitham responded, "I have favored I-66 and my position hasn't changed. The requirement of the court having been fulfilled, I believe that's also the policy of the [highway] commission." Fugate added, "The commission has adopted I-66."

James Govan pointed out that the multimodal option was not really an alternative to I-66 because it included construction of the Interstate highway.

Opponents did not expect to convince VDH to abandon I-66. Rather, they contended transit was a feasible alternative. In that case, Section 4(f) would prevent Secretary Brinegar from approving the taking of any parkland.

Arlington County Board Chairman Munsey expressed concern about noise impacts that seven schools along I-66 would "suffer," possibly causing them to close. Mass transit, he said, would be safer, just as fast, and reduce congestion better than the highway.

Virginia State Senator Omer L. Hirst (D-Fairfax County) said:

Northern Virginia is automobile dependent and there is no . . . expert opinion that contends that counties like Fairfax, Loudoun and Prince William . . . will be able to do away with the personal automobile.

He predicted that I-66 "would do more to relieve the present congestion on various streets and roads in Arlington and Fairfax counties . . . than any other construction."

The Reverend Gipson, the long-time freeway opponent representing the Upper Northeast Coordinating Council in the District, said construction of I-66 would simply funnel more vehicles onto the District's already overcrowded roads. "We're very concerned about any proposal that brings more roads at us." [Shaffer, Ron, "Start of Hearings on I-66 Is Calm," *The Washington Post and Times Herald*, December 18, 1973; Kast, Heilah, "I-66 Decided On?" *The Washington Star-News*, December 18, 1973]

During the December 18 hearing, I-66 supporters dominated the testimony. Citizens for I-66's Jones argued that building I-66 would save gasoline because it would eliminate much of the stop-and-go traffic on area streets. He said that I-66 would relieve congestion on the George Washington Memorial Parkway and State Route 123 while providing an improved link to the Dulles Access Road. As for the impact on Arlington schools, he said they "have had ample time to prepare" for the highway.

Another member of Citizens for I-66, John Hoerner, took exception to the anti-highway argument that freeways induce traffic to the point of congestion, making transit the best option. He argued that, "The trains run empty during off hours in every transit system. This wastes tremendous energy."

The group's chairman, Harrison Mann, supported the multimode option. The combination of I-66, Metro, and feeder bus lines to the Metro stations would result in more passenger-carrying capacity than the highway or transit alone.

Some critics testified. James B. Sullivan, director of the Center for Science in the Public Interest, accused consultants of "seriously underestimating" the air pollution that would result from construction of I-66. The *Star* summarized a related line of attack:

Twenty economists from the Public Interest Economics Center criticized the study because "it under estimates the cost of the proposed transportation options while overestimating their benefits.

The economists said nothing but the so-called "base case" – the existing transportation for foreseeable improvements – would be justifiable in cost.

As the *Post* and *Star* pointed out, the spur of I-66, namely the I-266 Three Sisters Bridge, also was in the news that day. Judge Sirica held a hearing to consider a request by the plaintiffs for the government to pay their fees. Assistant Corporation Counsel Thomas C. Bell of the District of Columbia told Judge Sirica the city still planned to build the bridge, but was awaiting approval for the project from Secretary Brinegar. Judge Sirica asked, "Why has it taken so long?" Bell did not have a clear answer, but referred to new Federal environmental requirements that were being applied to the bridge project. "It's very slow progress We are mandated to build this bridge by Congress."

After the hearing, a Department spokesman told a reporter that Secretary Brinegar would not decide whether to approve the Three Sisters Bridge until the fate of I-66 is decided. "We're in a holding pattern until the hearings are complete," the spokesman said. [Kast, Shielah, "I-66

Backers Dominate Hearing,” *The Washington Star-News*, December 19, 1973; Shaffer, Ron, “Adversaries Over Route I-66 Coexist,” *The Washington Post and Times Herald*, December 19, 1973; “DOT Delays Decision on 3 Sisters Bridge,” *The Washington Post*, December 19, 1973]

On December 19, ACT accused Virginia highway officials of having decided to build I-66 before the week-long hearings began. “From the evidence we’ve seen,” Emilia Govan said, “the decision has already been made at the state level to build the highway, and if that’s true, that’s contempt of the court order.” She also wondered whether highway officials would take the time to read the voluminous transcript of the hearings and what weight would be given to critical comments.

With a reporter in listening distance, VDH’s A. K. Hunsberger, cochair of the hearings, told her that he favored building the multimodal option. That was not the official position, as Fugate made clear to the reporter. State highway officials were “going to reevaluate” their decision to build I-66. “The Highway Commission will review the question very carefully and come up with another decision on the matter.” Highway officials assured the reporter that each member of the Virginia Highway Commission would receive a copy of the transcript and the testimony “will be read.” Meanwhile, Hunsberger pointed out that he was simply stating “my opinion” and that he had “an open mind” on all the options under consideration. He added that critical issues raised during the hearings “would be responded to” by the State’s consultants before any decision is made.

Attendance at the day’s hearing was sparse, with no more than 60 present in a ballroom at the Rosslyn Ramada Inn that could seat 700:

In yesterday’s testimony, Martha V. Pennino, Fairfax County Supervisor from the Centreville District, said the arrival of the Metro system in the suburbs will not reduce the need for a highway from western Fairfax County to the District. “As this area continues to grow, so will the use of the automobile,” she said.

Other prohighway speakers said the road extension is necessary to stimulate development in the Northern Virginia suburbs beyond the Beltway. Opponents said the extension would not relieve total traffic in Arlington as proponents maintain, but would generate even more traffic. [Shaffer, Ron, “Foes of I-66 See Plans as Already Set,” *The Washington Post*, December 20, 1973]

By December 20, the “seemingly endless flow of speakers for and against” I-66 was “suffering occasional interruption now.” Speakers, pro and con, were repeating the same points, as the *Post* summarized: “The highway will ruin the environment, shorten commuter time, waste energy, promote business activity.” During a brief recess for lack of a speaker, Singleton characterized the 53 hours of testimony thus far:

There’s a day-time and a night-time population. The night-time opponents are completely prepared with technical expertise. Their main objective I’m afraid is to render the consultants’ expertise inaccurate. They say you are going to increase pollution and congestion and destroy the quality of life.

The proponents have not done so much from the technical sense; they seem to say that common sense says we need it. I think the “pros” are representing many more people in Northern Virginia.

By his calculation, the hearing thus far had included 111 speakers in favor of I-66, and 106 against its construction.

Reflecting the pace, a police officer on security duty described the hearing as “drag time.”

A member of ACT, Kathy Freshley, said her group was calling people “on our side who couldn’t come so they can at least submit their statements for the record.” She added, “It’s an extraordinary time for a fight five days before Christmas, but if you didn’t testify it would be railroaded right through. We’ve got to be counted.”

Pro-I-66 forces wanted to respond to Emilia Govan’s claim that State highway officials had decided to build the highway even before the hearings began. Citizens for I-66’s Mann called that claim, “Pure poppycock” and said that Govan was making “self-serving charges to use in further delaying tactics through the court.”

When printed copies of his statement were being distributed, Govan commented “we can’t even get our statements typed. We just don’t have the money to do that.” She added, “There’s a difference in style between our groups.”

The two sides had taken rooms, for \$23 a day, at the Ramada Inn. Emilia Govan explained:

On our side it’s been a spontaneous grass roots effort with very scrimpy financing. We are operating on a shoestring. I was hesitant to get a room here, but it turned out to be a necessity. We had to have a place to work.

As the *Post* pointed out, pro and con speakers may have fallen into repetitive arguments, but the sides differed in the accommodations. By contrast with ACT, the pro-highway forces’ suite was “filled with people drinking coffee they had bought from the hotel management and enthusiastically describing the hearings as ‘sort of a little political campaign’”:

The differences between the two groups were apparent: the proponents had two electric typewriters, the opponents had an old manual; the proponents rented two tables at \$109 a day in front of the ballroom, the opponents have only one. [Kiernan, Laura A., “Views on I-66 Resolved to 4 Key Points,” *The Washington Post and Times Herald*, December 21, 1973]

On the fifth day of the hearings, WMATA Deputy General Manager Quenstedt testified that failure to build I-66 inside the Capital Beltway would result in “extremely high additional costs” for the Metro line to Virginia. He insisted he was not endorsing I-66, but simply urging officials to decide the fate of the highway as soon as possible so Metro could proceed accordingly. “We are committed to construct this route as expeditiously as possible, whatever decision is made on I-66.”

If I-66 were built, Metro and the highway builders could proceed at the same time. If I-66 were not built, Metro would “have to implement extensive design changes that will result in an extremely high additional cost.” The current design was based on grading, draining, retaining walls, site elevation, and bridge lengths with construction in the median of I-66 in mind.

Quenstedt also pointed out that the right-of-way for I-66 cost about \$22 million, but if I-66 were not built, the land would revert to the original owner. If Metro had to buy its own right-of-way, the cost would be far higher in the current market. “But if we have to go back through the process of condemning and buying once again, we’ll do just that, because the board has already decided we’re going to go down that corridor.”

Pro and con forces responded to Quenstedt’s testimony. Mann said the testimony was “vitaly important and shows that Metro regards I-66 as complementary to the Metro system.” Emilia Govan said, “I was afraid of something like that. His remarks indicate that the people who run Metro have always been in bed with the highway boys and are not interested in providing good rapid transit for this area.” She pointed out that the Federal-Aid Highway Act of 1973 would allow Virginia to request withdrawal of I-66 inside the Capital Beltway from the Interstate System in return for funds for rail rapid transit, thus addressing Metro’s cost concerns. [Oman, Joanne, “Metro Aide Backs I-66, Cites Costs,” *The Washington Post and Times Herald*, December 22, 1973; “Metro Rail Tied to I-66,” *The Washington Star-News*, December 22, 1973]

By the end of the 5-day I-66 hearings, the *Post* said that, “339 speakers representing individuals, civic organizations and governmental bodies spoke during the 84 hours of hearings 170 endorsed the 10-mile expressway, 168 opposed it, and one agency, the Fairfax County Park Authority, took no position.” The record covers 1,700 pages of testimony and included 760 letters and 21 petitions with 11,000 signatures.

In the end, the hearing was “gaveled to conclusion in an almost empty meeting hall big enough for 700 persons at the Rosslyn Ramada Inn in Arlington”:

At the conclusion of the hearings, Austin K. Hunsberger, director of engineering for the Virginia Department of Highways, said that he and his two top officials in the department will review the hearings and make recommendations on building the road to the highway commission.

If the commission approves construction, its recommendation will be passed on to U.S. Secretary of Transportation Claude S. Brinegar for a final decision. [Edwards, Paul G., “339 Talked in 6 Days of I-66 Hearing,” *The Washington Post and Times Herald*, December 23, 1973, cited in White, page 60]

As cited in Leland White’s article about the I-66 controversy, the *Fairfax Globe* said the hearings “had all the earmarks of a political convention”:

Different factions passed out buttons, stickers, and reams of propaganda, while their leaders huddled in upper-floor hotel suites, plotting strategy and polishing speeches Staring impassively, chomping on cigars, pipes and toothpicks, the men from the VDH

heard environmentalists call I-66 everything from a “concrete monster” to an “unspeakable obscenity” to “the rape of Arlington.” [Davies, Frank, “The I-66 Hearings: The Last Hurrah,” *Fairfax Globe*, December 27, 1973; White, page 61]

During the hearings, no one had objected to Metro. According to Donald Appel, who headed the study team that prepared the draft EIS, the question was, “What constitutes a balanced transportation system?” In other words, “how much mass transit and how much automobile.” Hunsberger saw the issue in the same terms:

One group is advocating a balanced transportation system. The others advocate abandonment of one form of transportation and insertion of another.

James Govan, of course, was in the latter group when it came to balance:

The day of choice in commuting to work, a single person in a car, is going to end in this decade. Restrictions on gas, parking charges and transportation control measures are going to at least require car pooling. [Kast, Sheilah, “How Many Cars, How Much Transit,” *The Washington Star-News*, December 23, 1973]