

**D.C. Freeway Revolt and the Coming of Metro**  
**Part 7**  
**Getting Construction Underway**

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## Part 7 Getting Construction Underway

### The Future of NCPC

On October 9, the *Post* and *Star* began following reports about NCPC's future. Discussions about ending NCPC and turning its authority over to city and Federal agencies had begun during the Johnson Administration. However, the idea had been dropped reportedly because of opposition by President Johnson's friend, Chairman Rowe.

Now, the newspapers reported that Chairman Hammer and Executive Director Charles H. Conrad had been meeting with presidential assistant Moynihan on the commission's future. Hammer, the *Post* reported, had been working toward eliminating NCPC, but he would not disclose details of the talks with Moynihan other than to say "some recommendations will come forth." The possible dissolution of NCPC was foreshadowed in the city's request for \$100,000 in its FY 1970 budget to open a planning office. [Downie, Leonard, Jr., "NCPC Asks White House For City Plans Agency," *The Washington Post and Times Herald*, October 9, 1969]

That same day, Chairman Hammer and James Gibson, chairman of NCPC's urban renewal and housing committee, resigned from NCPC in an exchange of letters to further reorganization plans. Hammer, who indicated that the two resigned at the same time to make clear that they strongly supported reorganization, said in his letter of resignation that he had been working with the White House "to produce a sound reorganization plan":

This reorganization process is clearly established and, indeed, it is because of this fact that I can with good conscience now step down, knowing that one of our major objectives [is] on its way to being realized.

Gibson said the reorganization plans were "gratifying to me." They emphasized "the growth of sincere efforts to identify citizen views and to incorporate them into official policies and programs."

President Nixon's letter accepting the resignations indicated that local planning was rightly the responsibility of the District government:

In the District, I have advocated a policy of improving the effectiveness of local government, in preparation for the day when the District will enjoy full self government.

A White House spokesman said the reorganization plan, still in the works, probably would involve an executive reorganization plan that would be submitted to Congress for 60 days of scrutiny. Unless Congress vetoed it, the plan would go into effect at the end of the 60-day period. A White House official emphasized that President Nixon was "really interested and committed" to the reorganization and, unlike President Johnson, was unlikely to change his mind.

NCPC Vice Chairman G. Franklin Edwards, the Howard University sociologist, became acting chairman following Hammer's departure. [Wright, Christopher, "Two Planners Resign From

Capital Unit,” *The Evening Star*, October 9, 1969; Eisen, Jack, “2 Key Members Quit NCPC, Praise Reorganization Plan,” *The Washington Post and Times Herald*, October 10, 1969; Eisen, Jack, “Resignations Freeze City’s Planning Setup,” News Analysis, *The Washington Post and Times Herald*, October 11, 1969]

### **Before Construction Can Begin**

On October 10, as Head Construction Company prepared to begin work, students from Georgetown, George Washington, and American Universities paddled two canoes and two rowboats to the Three Sisters Islands. Calling themselves the Student Committee on the Transportation Crisis, they unfurled a STOP THE BRIDGE sign and announced their intention to spend the night on the islands. [“Assault on Three Sisters,” *The Washington Post and Times Herald*, October 11, 1969]

The next day, they had been joined by about 100 protesters of all ages. Bart Hogan, a psychiatrist from the District who had paddled a canoe to the islands with his wife and small children, explained:

Some of the younger people see it as just destruction of black homes. We see it as part of a bigger problem which no one can win. It’s unfortunate that it’s becoming a black-white issue. The bridge is going to destroy the things which make Washington a liveable place.

A 21-year old photography student at the Corcoran School of Art, John Thornton, said, “I see the bridge as a key link in a freeway system which isn’t a practical or viable way to alleviate the District’s traffic problem.” He added, “I’m in favor of occupying the islands until we get busted.” One of the organizers of the protest, 23-year graduate student Matt Andrew, agreed that they should continue to occupy the site “indefinitely.” [Colen, B. D., “Nearly 100 Bridge Foes ‘Occupy’ Three Sisters Islands,” *The Washington Post and Times Herald*, October 13, 1969]

On October 13, protesters managed to halt the start of construction – briefly. For 2 hours, they prevented workers from loading a crane onto a barge. Protesters also tried to stop installation of drainpipes – each 20 feet long and 6 feet in diameter – in a storm sewer outlet by rushing into the pipes. A supervisor ordered a crane operator to hook one end of the pipe and lift it to shake the protesters out. The operator refused. By 9:15 a.m., NPS police had arrived and, with threats of arrest, convinced the protesters to retreat. All the intended work was then completed. [Weil, Martin, “Bridge Work Starts,” *The Washington Post and Times Herald*, October 14, 1969]

Excavation off the Virginia shore began the next day despite a 2-hour attempt by protesters to halt work. They were joined by Georgetown residents who helped to occupy a construction company tug and stand in front of the crane. [“Protest Delays Bridge Work,” *The Washington Post and Times Herald*, October 15, 1969]

On October 15, hundreds of protesters – “college age men and women, some with children, many from the Georgetown area and many from Georgetown University,” according to the *Star*— appeared at the site from different directions. About 150 of them blocked the access road to the site, shouting “Stop the bridge, free D.C.”

When police threatened to arrest them if they did not disperse, they ran onto the construction site, sat down, and locked arms while chanting “Power to the people.” The police began arresting protesters, while word of the action prompted George Washington University students to march along Canal Road to the site even as police raced to cut them off. By the end, 141 protesters, mostly students but including ECTC’s Sammie Abbott, had been arrested on disorderly conduct charges. [Brandon, Ivan C., “141 Protesters Arrested at Three Sisters Site,” *The Washington Post*, October 16, 1969; Gay, Lance, “Scores Seized In 3 Sisters Bridge Delay,” *The Evening Star*, October 15, 1969]

The *Star* dismissed the “demonstrating college students” as acting out of “a youthful yearning to confront the police once again in the name of high moral principle.” However, when “the basis of protest is as barren as it was in this case,” the editors explained, “the performance forfeits any claim to merit.” The most misleading claim, as stated by a spokesman, was that “We don’t want our homes bulldozed down to make way for 10 lanes of concrete.” Setting the record straight, the editors said the bridge and its interchange “would affect *no housing* whatever” in the District and that the Potomac River Freeway would take “a grand-total maximum of *three homes*, all three, incidentally, in the high-cost category.”

The protesters and anyone else interested in the welfare of the city should also consider that construction of the bridge had persuaded Congress to release funds for the start of construction of the Metro rail system. “The actual subway construction, however, has not yet begun, and it would be a massive disservice to jeopardize that event for a frivolous purpose.” [“Freeway Fever,” *The Evening Star*, October 17, 1969]

Dozens of police officers arrived on Thursday, October 16, to protect the construction site from the protesters who had promised to show up. However, when they failed to arrive, the police dispersed at mid-morning and work on the bridge piers continued. During the afternoon, several protesters arrived with signs, but did not interfere with the work. They left after 30 minutes. [“Police Mass, But Span Foes Fail to Appear,” *The Evening Star*, October 16, 1969; “Sign-Carriers Visit Bridge Site,” *The Evening Star*, October 17, 1969]

On October 17, Judge Sirica again denied a temporary injunction to halt construction of the bridge as requested by the D.C. Federation of Civic Associations. Owens had again argued that the city had not complied with the 1893 District law involving public hearings and the width of highways. The District responded that the “notwithstanding” clause in Section 23 of the Federal-Aid Highway Act of 1968 had waived the 1893 law. Owen indicated that the federation would appeal Judge Sirica’s decision to the U.S. Court of Appeals. [“Judge Denies Bid to Block Bridge Work,” *The Evening Star*, October 17, 1969]

On Sunday, October 19, a crowd appeared at the construction site for a protest rally. Students were in the minority in the mixed crowd of white and black, young and old. The *Post* described one element of the protest:

[The] crowd of blacks and whites stood in the sun on the Washington bank of the Potomac and listened to Sammie Abbott of the Emergency Committee on the Transportation Crisis tell them “the people of the District are fighting not only the

highway department, the Congress of the U.S., but the media – particularly the Star and the Post – which are not only the handmaidens but the prostitutes.”

“I for one am prepared to die” in the fight, the publicity director of the ECTC told the crowd.

Abbott seemed to warm to the crowd as the crowd warmed to him. A physically small man, he seemed to grow as he almost yelled. “Before another inch of these damn freeways gets laid down in the District there’s gonna be flames, there’s gonna be fighting, there’s gonna be rebellion! And I for one . . . .”

He was drowned out by cheers and clapping and raised his fist in salute to the crowd.

Protesters carried signs with statements such as “Ban the Span,” “Let’s Stop Playing Bridge with Natcher,” and “Today the Three Sisters, Tomorrow the Four Horsemen.”

Dr. Michael Halberstam of the Foxhall Village Citizens Association told the crowd, “This protest isn’t the work of a little group of students. They’ve done good work, but Mr. Abbott has done good work, and our lawyers have done good work,” as have other adults. (Foxhall Village is an affluent community adjacent to Glover-Archbold Park and George Washington University.) [Colen, B. D., “Bridge Foes Protest, Plan March Today,” *The Washington Post and Times Herald*, October 20, 1969]

The next day, October 20, the protest began with a meeting on the Georgetown University campus at 2 p.m. One of the leaders, William Treanor, explained, “We’re not going to protest construction of the bridge; we’re going to stop its construction.” The plan was to surround each piece of equipment while assuring workmen that they would not be harmed. As they marched toward the site they were joined by residents of Foxhall Village and other neighborhoods. They chanted “Smash the Bridge” and “Free D.C.” as they marched to the site.

At the site, police blocked the canal towpath in a solid line. Anyone trying to cross the line, the police warned, would be arrested. When protesters tried to outflank the line, the police rushed them, nightsticks swinging. They tackled and grabbed the protesters, who were yelling obscenities and throwing stones at the officers. When the protesters regrouped, the police again warned them to disperse. When they did not immediately leave, the police charged again, tackling and arresting four demonstrators as the rest ran back up the towpath. They returned to the campus at Georgetown University, with some throwing rocks at the police, prompting several more arrests.

In all, the police arrested nine protesters, including Treanor, who had continued shouting slogans into a bullhorn “until he was tackled and smothered into silence,” as the *Post* put it.

Dr. Halberstam told reporters that the protesters had planned a peaceful protest without arrests or violence. “Until,” he added, “the police gave them an issue by bloodying their heads.” He did not support rock throwing, but was more upset with the police “who are supposed to be professionals and trained in this sort of thing.”

Reporters observed Richard Blumenthal of Moynihan's White House staff, at the scene observing the protesters. He declined to comment. He would later tell reporters that he visited the site only because of professional curiosity. [Valentine, Paul W., "Police Club Protesters at 3 Sisters Bridge Site," *The Washington Post and Times Herald*, October 21, 1969; Slight, William, "Nine Arrested In Clashes at Bridge Site," *The Evening Star*, October 21, 1969; "Nov. 16 Protest March On 3 Sisters Span Set," The Metro Scene, *The Evening Star*, October 24, 1969]

The construction site was quiet the next day, October 22, but ECTC protesters were present to hand out anti-freeway brochures. They promised to be there every work morning. ["Demonstrators Fail to Show at Bridge Work Site," *The Evening Star*, October 22, 1969]

The *Post*, in an editorial, said the student demonstrations initially "looked like good clean fun," with students "able to demonstrate their opposition to the city freeway system under agreeable conditions and in pleasant weather." However, the demonstrations had "taken an ugly turn toward the rough-and-tumble confrontations between the students and the Metropolitan Police which, if they continue, cannot add much glory to either side":

Naturally, the city cannot permit the demonstrators to attain their goal by stopping construction which was ordered under way by congressional action.

The "predominantly white demonstrators" had aligned themselves with inner-city blacks "who, they claim, will be displaced by the thousands if the bridge and its cross-town connections are built." The bridge, in their view, was "an illegal link" to their real target which "seems to be the north leg of the so-called inner loop which was routed originally on an alignment with Florida Avenue and U Street NW and the inner city." They were not deterred by the city's shift of the link to a K Street tunnel.

Judge Sirica's ruling denying a temporary injunction was subject to appeal. The students had "a perfect right" to raise their concerns, but they should understand that their concerns "cannot be resolved by a test of strength along the shores of the Potomac." They should await the court's verdict and the results of the congressionally ordered study. ["Three Sisters and the Students," *The Washington Post and Times Herald*, October 23, 1969]

That same day, Deputy Mayor Fletcher announced that the city would hire a private consultant to study the route of the North-Central Freeway. This approach would provide an independent voice on the routing. According to Dana Wallace, deputy highway director, the alignment that had generated many protests was unlikely to be selected. The latest maps indicated the link to I-70S would be carried in a tunnel under K Street, NW. It would displace about 175 people, compared with 6,000 to 7,000 people along the earlier alignment.

The study was to be completed in time for decisions to be made before the 18-month deadline of February 23, 1970, imposed by Section 23 of the 1968 Act. If the city did not submit recommendations by that date, it must begin construction on the earlier alignment. [Green, Stephen, "D.C. Acts to meet Freeway Deadline," *The Evening Star*, October 23, 1969]

Amid the protests, court proceedings, and progress on the freeways, WMATA was planning the groundbreaking ceremony for Metro construction. WMATA invited President Nixon to participate and gave the White House two choices – a ceremony in Judiciary Square or Lafayette Park across Pennsylvania Avenue from the White House. The ceremony was scheduled for December 9 at 3 p.m. in Lafayette Square, as the *Post* explained:

Plans call for a speakers' stand directly across from the White House north portico. From the stand, the President or his representative will activate an auger that will begin to excavate a vent shaft near the southeast corner of the park.

WMATA planned to invite members of the Cabinet, Congress, and Supreme Court, and executive branch officials as well as State and local officials and civic leaders from the area.

In making these plans, WMATA was aware that the ceremony was contingent on Congress passing the District appropriation act, 1970, with the matching funds included. Chairman Natcher had not indicated he was having any doubts, but the activities of his Senate counterpart, Chairman Proxmire, were a continuing concern. The WMATA board had written to Chairman Proxmire explaining how his idea of cutting the appropriations threatened a collapse of the financial structure for Metro. ["Nixon Asked to Assist Metro Groundbreaking," *The Washington Post and Times Herald*, October 24, 1969]

Freeway critics were continuing to explore ways to achieve their goals. At an October 25 press conference on the Three Sisters Bridge site, Mrs. Penny Hogan of Foxhall Village, representing a Citizen's Coalition on the Bridge Crisis, announced that she would present a petition to the Board of Elections asking that a referendum question on the bridge and freeways be included on the November 4 school board election ballot. The petition included more than 2,000 names, including Supreme Court Justice William O. Douglas, who lived at 4852 Hutchins Place near Canal Road and Foxhall Village. The anti-freeway forces also announced a protest rally at the Sylvan Theater on the grounds of the Washington Monument. (The rally would be rained out.)

The Board of Elections denied the petition. Under its rules, a political party may request placement of ballot items on issues affecting the party. However, the school board election was nonpartisan, eliminating addition of ballot issues. ["Bridge Opponents Plan New Rally," *The Sunday Star*, October 26, 1969; "Referendum Denied Foes of Sisters Span," *The Evening Star*, October 28, 1969]

Although the Three Sisters Bridge was the main focus of interest, the city's plans for the South Leg of the Inner Loop Freeway were in transition, according to unnamed sources. The new plan under consideration called for two tunnels connected by a roofless trench generally along Independence Avenue, NW. According to Jack Eisen:

One tunnel would be beneath the Lincoln Memorial circle, swinging in an arc around the west and south sides of the memorial itself. The other tunnel would go beneath the northern tip of the Tidal Basin and extend almost to a surface connection with the existing Southwest Freeway

The plan is similar to one advanced by the highway department prior to 1966 when the planning commission called for a full tunnel. The city's official thoroughfare plan, adopted by the City Council last December, calls for a tunnel.

Eisen reported that NCPC was reviewing the city's proposal in closed session, but an opponent of the idea leaked the information to reporters. "The critic expressed concern that the road would 'split' the park." Although NCPC and the District Highway Department refused to confirm or deny the concept, they both "expressed distress at the leak." [Eisen, Jack, "Highway Dept. Revises Memorial Tunnel Plan," *The Washington Post and Times Herald*, October 30, 1969; "New Plan Urged For South Leg," *The Evening Star*, October 30, 1969]

The day that reports of the South Leg Freeway proposal surfaced, Congress completed work on the District of Columbia Revenue Act of 1969. The conference report on reconciling differences between the House and Senate versions of the bill retained the restriction on the Federal payment as Section 803. The appropriated funds (\$105 million, plus \$5 million for new law enforcement programs) would not become available until the President reported to Congress that the city had begun work on each of the projects listed in Section 23(b) of the Federal-Aid Highway Act of 1968 or, if not, had been unable to do so because of a court injunction issued in response to a petition filed by a person other a city official, agency, department, or instrumentality of the United States.

The Senate and House approved the conference report on October 30 without a recorded vote and without discussion of Section 803. President Nixon approved the legislation on October 31, 1969 (P.L. 91-106). [District of Columbia Revenue Act of 1969-Conference Report, *Congressional Record-Senate*, October 30, 1969, pages 32413-32414; Conference Report on H.R., 12982, *Congressional Record-House*, October 30, 1969, pages 32415-32420]

### **Fighting On**

On October 31, a three-judge panel of the U.S. Court of Appeals denied a preliminary injunction to stop construction of the Three Sisters Bridge. The court found that the city had committed more than \$1.1 million to a construction contract but that no additional contracts were to be awarded before Judge Sirica decided the court case within 60 days. The city might "incur substantial financial penalties in the event that an injunction is now granted." Chief Judge David L. Bazelon and Judges Carl McGowan and Spottswood W. Robinson III did not comment on the merits of the arguments related to the "notwithstanding" clause in Section 23 of the 1968 Act.

Plaintiffs were entitled to a full hearing in District Court, but in the meantime, the city should avoid "further contractual commitments" for the bridge. [Lippman, Thomas W., "Court Refuses to Halt Bridge," *The Washington Post and Times Herald*, November 1, 1969; "Appeal to Bar Bridge Fails in U.S. Court," *The Evening Star*, November 1, 1969]

Bridge opponents were disappointed, but they planned to continue fighting the project. On November 1, for example, 10 Halloween witches appeared on Capitol Hill to put a hex on Chairman Natcher and a "spell of doom" on the Three Sisters Bridge. "Dressed in flowing black



robes and black-and-orange hats, all young women,” according to the *Star*, they displayed a wooden model of the bridge. They chanted “A hex on Natcher, a hex on Natcher,” puzzling passersby who asked reporters what “Natcher” was:

The witches said they are members of the Women’s International Terrorist Conspiracy from Hell (WITCH), an off-shoot of the Women’s Liberation movement.

Assembling in a semicircle on the steps of the Capitol, the witches jumped up and down, waved their arms and proceeded to leap on the wooden bridge model, crushing it.

After the Capitol ceremony, they left to go to a department store where, they said, they would protest “exploitation of the consumer.”

They did not say how they planned to travel, but reporters saw no sign of any broomsticks. [Green, Stephen, “10 Witches Cast Spell on Capitol Hill,” *The Evening Star*, November 1, 1969]

At 5:15 a.m. on November 2, a blaze was spotted on the bridge construction site. Fire fighters found two mobile trailer units on fire from a barrage of Molotov cocktails. The arsonist or arsonists broke a lock on a gate in a chain fence surrounding the trailers. Untouched were four 400-gallon tanks of propane gas adjacent to the most heavily damaged trailer, a 500-gallon tank of gasoline 10 feet from the other trailer, and three 50-gallon oil drums.

The construction supervisor for Head Construction Company, Mendal Wilson, said the fire destroyed two outboard motors, four air conditioners, a large radio console, a refrigerator, blueprints, records, tools such as ax handles and hammers, and 12 cans of beer. Wilson did not expect the fires to delay construction, most of which involved heavy equipment. [“Arson Probed in Bridge Site Blaze,” *The Evening Star*, November 3, 1969]

Having been denied a place on the school board ballot, a group called D.C. Citizens Referendum Committee announced it would place their own ballot boxes in front of all city polling places on November 4. In the informal balloting, citizens would be asked to vote “yes” or “no” on:

Do you favor the construction of the Three Sisters Bridge and its connecting freeway system?

Dr. Halberstam, speaking for the committee, said, “We think the people are against the bridge. We will work to make Congress see the error it has perpetrated” by ordering the city to build the bridge.

He and other speakers at the press conference disowned the firebombing of the trailers on the project site. Some said, however, that they understood the desperation the arsonists must feel. [Weil, Martin, “3 Sisters Foes Plan Poll Today,” *The Washington Post and Times Herald*, November 4, 1969]

The committee managed to place ballot boxes outside about three-quarters of polling places throughout the city except the predominantly African-American wards 7 and 8 east of the

Anacostia River. Most people who voted in the school board election took time to vote outside the polling place on the freeway question. Overall, voters disapproved the freeway system, 9,850 to 1,819, with opposition overwhelming in the Georgetown area. One voter described in the *Post* as an “elderly Georgetown woman,” said, “Good Lord, yes, I want to vote against it.” [Valentine, Paul W., “D.C. Voters Oppose Bridge in Poll,” *The Washington Post*, November 5, 1969; “84 Pct. Polled in District oppose Three Sisters Span,” *The Evening Star*, November 5, 1969]

NCPC intended to consider the new plan for the South Leg Freeway in public on November 6, but the plan was removed from the agenda the day before. District officials requested removal of the item after news of the plan had been leaked to reporters the week before. Now, the city planned only to describe the plan to NCPC, not seek approval.

A spokesman for FHWA said the agency had provided an announcement about the South Leg Freeway for the White House to release the previous week, but it had not been released. It stated that the Department of Transportation and NPS had agreed on the plan. The depressed roadway would not “impair the beauty” of the monument area and would “permit development of the area in line with long-range plans of the park service.”

NPS Director Hartzog described the plan as a “compromise . . . we gave up a few things and gained a few things.” He would not elaborate on that statement when questioned by reporters. As for NPS officials who opposed the plan, he said, “I don’t count hands when I make a decision.” [“Planners Delay Action On South leg Freeway,” *The Evening Star*, November 5, 1969]

On November 6, Leonard DeGast, the highway department’s planning and programing chief, outlined the new plan for NCPC. Robert J. Lewis described the plan in the *Star*:

The District official disclosed that the substitute plan called for two 1,300-foot tunnels, one beneath the Lincoln Memorial and the other under the north projection of the Tidal basin.

Another tunnel section would carry the expressway 2,300 feet roughly along the right-of-way of the present Independence Avenue, from 23<sup>rd</sup> Street to 17<sup>th</sup> Street.

The main reason for the change, DeGast said, was cost. The new proposal would cost \$55 million, compared with \$95 million to \$100 million for the earlier all-tunnel plan. DeGast and Colonel Starobin, who was Mayor Washington’s representative on NCPC, said FHWA, which was providing the funds, preferred the revised version.

As Jack Eisen put it, NCPC members “voiced outrage” after DeGast’s presentation. Former NPS Director Wirth was especially upset. He said, “If you go ahead with this, you will isolate the Tidal Basin and the cherry blossoms and you will commit a national disgrace.” As for the cost comparison, he told DeGast:

I'd like to see the cost figure on the original tunnel under the Tidal Basin. I think you are putting in figures that will make an impression, but I don't think you are giving a proper value to the damage you will do to this monumental area.

Acting Chairman Edward said, "I am deeply concerned that the matter has come back to us" after NCPC had insisted in 1966 on the all-tunnel route. Paul Thiry said, "This is a disgrace . . . it is a national disgrace." [Lewis, Robert J., "Plan for South Leg Draws Bitter Fire," *The Evening Star*, November 7, 1969]

### **Freeway Consideration (or Not)**

While appearing before NCPC, DeGast discussed the path of the North Leg Freeway that would be one of the outlets for the Three Sisters Bridge. "Not content with only one surprise," as the *Star* put it, DeGast told NCPC that a study of the North Leg Freeway would give positive consideration to a route for the expressway along U Street and Florida Avenue, NW:

Freeway foes have long contended that this path, which would lead to the displacement of many households, has been under serious consideration by the highway department, even though department and other city officials denied it.

Mayor Washington, after learning about DeGast's comments, declared the U Street freeway plan dead. The route, Mayor Washington said, would be cited in the study only to meet "the technical requirements of the 1968 highway act," based on the reference in the conference report to the U Street corridor indirectly as the originally adopted route:

We . . . reaffirm in the strongest terms possible . . . that such a route is unacceptable to the city. It has been studied and rejected by the City Council, and National Capital Planning Commission and the Mayor. A principal reason for the rejection . . . was the relatively high displacement of family dwelling units.

The study would consider alternative routes, with public hearings being held before a final decision. [Green, Stephen, "Freeway Opponents Fet An Unexpected Assist," Interpretation, *The Sunday Star*, November 9, 1969; Eisen, Jack, "Mayor Axes U Street Freeway Plan," *The Washington Post and Times Herald*, November 9, 1969]

On November 10, ECTC's Booker took credit for demise of the U Street freeway corridor at a sidewalk press conference outside the Pride office at 16<sup>th</sup> and U Streets. ECTC, he said, would continue to oppose the Three Sisters Bridge and any other routing for the North Leg Freeway, including a tunnel under K Street. Further, ECTC was broadening its scope to include urban renewal and the suburban-oriented Metro lines. They would "investigate the whole urban renewal business in this town," which he suggested consisted of "efforts of white businessmen to get back into the black community." ["Defeat of Freeway Claimed by Group," *The Washington Post and Times Herald*, November 11, 1969; "Front Urges D.C. Riders To Withhold Bus Fares," *The Evening Star*, November 11, 1969]

In Baltimore, the Urban Design Concept Team was considering alternatives for routing the six-lane East-West Expressway through historic Fells Point, established in the 1760s along the north

shore of Baltimore Harbor and the northwest branch of the Patapsco River. Two alternatives involved an elevated six-lane expressway, one 30 feet high and the other about 70 feet highway. Another alternative involved a “bifurcated” road that would include three lanes below ground, and three elevated. The final alternative was a six-lane underground expressway. Opposition to any alternative remained strong as *The Baltimore Sun* reported in article about the Fells Point Fun Fest:

All during the afternoon, a borrowed loudspeaker system broadcast “SOS” messages from “Radio Free Fells Point.

Taking turns at the microphone, volunteers from the Southeast Council Against the Road drummed home their message to city dwellers and suburbanites. The East-West expressway is scheduled to come straight through Fells Point, Highlandtown and Canton.

The expressway would take “230 homes, 900 jobs and thousands of people,” the volunteers cried. “We are being politically courted and legally extorted. Sign the petitions to stop the road” . . . .

One volunteer, Miss Barbara Mikulski, ventured the opinion that “the British couldn’t take Fells Point, the termites couldn’t take Fells Point and we don’t think the State Roads Commission can take Fells Point either.” [Keidel, Janelee, “Expressway Proposals Outlined,” *The Baltimore Sun*, October 26, 1969; Keidel, Janelee, “Thousands Throng To Fells Point Fun Fest,” *The Baltimore Sun*, October 6, 1969]

Wolf Von Eckardt, the *Post*’s architecture critic, wrote that the Baltimore concept team “seems to have found a way out of much the same freeway dilemma that Washington is in.” District highway officials, however, rejected that option. DeGast said, “The Baltimore team hasn’t worked out,” even though FHWA had recently extended the team’s contract for 15 months and \$3.4 million Von Eckardt explained:

The idea of the design concept team is to use the freeway as a means to redevelop rather than maim the neighborhoods it runs through and to do so by employing an interdisciplinary team of architects, sociologists, economists and other urban specialists – in addition highway engineers – to plan and design it.

The idea was initially opposed in Baltimore, but now was helping break “a bitter, 20-year deadlock”:

Here and in Baltimore many freeway opponents call the concept team idea just so much baloney. It is true it hasn’t stopped the freeway in Baltimore.

But it has made the original Baltimore highway proposal a lot more sensible, acceptable and compatible with the social and physical fabric of the study.

Reaction to the concept in Washington was mixed. As noted, the District Highway Department was opposed:

Mayor Walter Washington reportedly believes such a team should be set up for the new study of the North-Central Freeway in Washington which Congress has ordered.

The team may, for instance, find ways to make Brookland a more viable community, strongly linked to Catholic University, rather than have the freeway slice it apart.

City Council Chairman Gilbert Hahn is said to feel however that the North-Central Freeway study should be conducted by the D.C. Highway Department without outside consultants.

Joseph M. Axelrod, Chief Highway Engineer in Baltimore, recognized that critics had the right to fight the freeways:

“But what if you lose?” he asks his opponents. “Why don’t you hedge your bet by helping us do a better job for your neighborhood?”

It is too early to tell how the freeway opponents will respond to this appeal to “realpolitik.” It would obviously be better if all cities had not freeway design teams, paid by that one special interest, but transportation design teams that truly balance all modes of transportation – rapid transit, moving sidewalks, mini-buses and whatnot – in the interest of the city as a whole and under the direction of the mayor . . . .

Some day we will surely take a rational, systematic approach to our urban environment. But the way things are, a good many more miles of concrete will be forced through our cities.

We might as well try to design them intelligently as they begin to do in Baltimore where the highway engineers have now learned to welcome the help of other experts. This city should insist that ours do the same. [Von Eckardt, Wolf, “Baltimore’s Freeway Team,” Critique,” *The Washington Post and Times Herald*, November 8, 1969]

Von Eckardt was back the following day to discuss the first National Register of Historic Places, released by NPS under the National Historic Preservation Act of 1969. It listed 1,100 historic places in the United States that were “not to be destroyed, altered, or maimed by a federal government project,” Von Eckardt explained. The places included 44 historic monuments, buildings, and other places in the District of Columbia. The Lincoln Memorial, the Chesapeake and Ohio Canal, Glover-Archbold Park, and the Georgetown Historic District were on the list:

Just as the National Register of Historic Places 1969 . . . was published, it became known that the D.C. Highway Department finds it too expensive to tunnel its six-lane South Leg of the Inner Loop Freeway under the Lincoln Memorial and Tidal Basin. Part of it is now to be an open trench.

The Tidal Basin was not on the National Register but “ought to be”:

The law says the Register buildings and places are to be protected not only from destruction and alteration but also from “isolation from or alteration of its surrounding

environment, or introduction of visual, audible, or atmospheric elements that are out of character with the property and its setting.”

I should think the highway boys will have to find pretty smart lawyers to convince the Advisory Council on Historic Preservation, which is charged with protecting the registered landmarks, that a freeway trench and tunnel within a few feet of the Memorial doesn't isolate, alter or visually, audibly and atmospherically mess up its environment.

The Council has already successfully kept a freeway from thus maiming the historic Vieux Carre in New Orleans. But in voteless Washington, the highway men in Congress can always defy the Council and sneak in an amendment to get their way, as they did in the case of the Three Sisters Bridge. [Von Eckardt, Wolf, “Historic Omissions From the List of Landmarks,” *The Washington Post and Times Herald*, November 9, 1969]

Von Eckardt was especially worried about recent actions by Secretary Volpe around the country. “The 10-month-long seesaw battle for the heart and mind of Transportation Secretary John A. Volpe seems lost.” In the next few days, he was to announce approval of the North Expressway (U.S. 281), in San Antonio that “would pave some 150 acres of Brackenridge and Olmos Park, the Alamo Stadium, Incarnate Word College, a zoo, the famous Sunken Garden area, hiking trails and other recreation areas.” This was the plan that had prompted Senator Yarborough to introduce Section 4(f) of the Department of Transportation Act of 1966. Moreover, “Just a few days ago Volpe decided to sacrifice Overton Park in Memphis, Tenn.” These actions were “a clear victory for the militant highway builders, led within the Department of Transportation by the uncompromising Frank Turner, the federal highway administrator.”

The problem was that “Volpe is said to be overly susceptible to political pressures”:

Just where Volpe stands on the Washington freeway fight is unknown. While [Secretary] Boyd sided more or less openly with the freeway opponents and the March 1966 report by Arthur D. Little, Inc., the renowned systems analysts, who found Washington's proposed freeway system “inconsistent and incompatible with urban transportation needs,” Volpe has kept his own counsel in his negotiations with Congressman William H. Natcher (D-Ky.) who insists on building the system.

Approval of the San Antonio freeway raised concerns about District parks and historic places. “Now that it is to be routed across the Three Sisters Bridge, Virginia Route 66 [sic] traffic is pointed directly at Glover Archbold Park and the area north of it up to the Beltway.” The District Highway Department had published a plan showing the traffic turning sharply east along the Georgetown Waterfront:

This obviously makes little sense. And people who have watched freeway politics over the last few years predict with some certainty that as soon as the bridge is built, the highway militants will start pressuring for a Glover Archbold route . . . . The loss of Brackenridge Park and Volpe's disregard for Section 4 (f) can only encourage them.

The attorneys fighting in the U.S. Court of Appeals to block the bridge “are optimistic.” They think the “notwithstanding” clause in Section 23 of the 1968 Act “seems too murky a clause to survive judicial scrutiny.” [Von Eckardt, Wolf, “Paving Our Parks,” Point of View, *The Washington Post and Times Herald*, November 15, 1969]

Contrary to Von Eckardt’s understanding, Secretary Volpe announced on December 23 that based on available information, he could not approve construction of the North Expressway through the park. The location would remain under study. He did, however, approve construction of segments of the expressway north and south of the park – the section between Mulberry and Tuxedo Avenues – that would not affect options for bypassing the park.

In a Department of Transportation press release announcing the decision, he said, “The principal focus of the study will be upon an expressway alignment west of Alamo Stadium and along Devine Road”:

I want to make it clear that I have not reached any conclusion. This study is not made to provide additional justification for the present proposal.

It should be a demonstration of what professional engineering could accomplish if in fact the Devine Road configuration were the only location available.

The press release added:

Secretary Volpe said that his decision to approve construction of those portions of the North Expressway lying north of Tuxedo Avenue and south of Mulberry Avenue was based on several factors, including the decision of his predecessor, Alan S. Boyd, that there is no feasible and prudent alternative location for these segments, and that their design included all possible planning to minimize harm to affected parkland; the fact that the Texas Highway Department had already acquired and cleared substantial amounts of necessary right-of-way prior to passage of the Department of Transportation Act; and the severe displacement and hardship which a major realignment would cause.

“San Antonio has waited for the North Expressway too long,” Secretary Volpe said. “I feel that construction should begin without needless additional delay on the approved portions, while we obtain detailed information on a proper design for the segment of the Expressway between Mulberry and Tuxedo Avenues.

“While we are attempting to expedite this project,” the Secretary said, “we are determined to preserve the amenities of San Antonio’s valuable parkland.”

### **Metro Advances in Congress**

Congress was considering the future of Metro. The National Capital Transportation Act of 1969 was the vehicle for approving expansion of the bobtail system to 97.7 miles, and the Federal share of construction costs. However, for construction to begin, as planned, in December, Congress had to appropriate the District’s matching share. Chairman Natcher had agreed to appropriate the funds, but the legislative process had to be completed. In addition, the

Department of Transportation's appropriation for FY 1970 would include appropriations for the Federal two-thirds share of pending Metro costs.

On November 13, the House Committee on Appropriations approved an appropriation of \$43,173,000 in Federal funds for the Department of Transportation's contribution to Metro construction. The subcommittee headed by Chairman Edward P. Boland (D-Ma.), approved the Department of Transportation's request for the funds. The committee's report explains, "The Committee believes that the need for a rapid rail transit system for the National Capital area has been well established and that because of continuing cost escalation, any further delay would jeopardize the construction of the system." The report added that this amount was to pay two-thirds of total cost, with the District responsible for the balance. [Department of Transportation and Related Agencies Appropriation Bill, 1970, Committee on Appropriations, U.S. House of Representatives, 91<sup>st</sup> Congress, 1<sup>st</sup> Session, Report No. 91-642, November 13, 1969, page 31]

The House Committee on the District of Columbia approved the National Capital Transportation Act of 1969 on November 20 to authorize the Federal contribution of \$1,147,044,000 (including the \$100 million previously authorized for the bobtail system) for the 97.7-mile, 86-station Metro system. The bill, sponsored by subcommittee Chairman Fuqua, also called for a study, at a cost not to exceed \$150,000, of extending the system to Dulles International Airport.

The committee's report stressed the urgency of the situation:

The streets and highways of the Nation's Capital and its suburbs are beset by massive traffic congestion during the rush hours . . . . Traffic congestion is extremely serious today. It will become appalling in the years ahead, unless we move forward promptly with the development of an areawide system of exclusive right-of-way, high-speed, high-capacity rapid rail transit, to supplement the already stupendous interstate highway systems channeling traffic to and through the area.

In addition to authorizing the Federal share, the bill authorized the Commissioner (mayor) of the District of Columbia to contract with WMATA for the District's one-third share of construction costs.

WMATA had informed the committee that construction would begin within 75 days after receipt of the construction funds. The schedule called for completing the entire 97.7-mile system by the end of 1979.

The report concluded:

The unique and major Federal interest in Washington and the National Capital region, as well as the Federal Government's direct responsibility for assuring efficiency in the conduct of its own business and in preserving the beauty and improving the quality of the environment of the National Capital, necessitate a Federal capital contribution toward the cost of design and construction of the regional rapid rail transit system, which together with the contributions by the local jurisdictions and the issuance of revenue bonds by the Authority, will assure completion of the regional transit system . . . .



The actions of the Authority and the efforts of the local jurisdictions have furthered the transit program to the point where it is essential that the Congress provide at this time the additional authorizations necessary to assure orderly progress toward completion of the long-awaited rail rapid rail system. Your committee urges that this legislation receive the favorable consideration of the Congress. [National Capital Transportation Act of 1969, Committee on the District of Columbia, U.S. House of Representatives, 91<sup>st</sup> Congress, 1<sup>st</sup> Session, Report No. 91-677, November 20, 1969, pages 3, 6, 13]

Elsewhere on Capitol Hill on November 20, Chairman Natcher's District subcommittee approved the appropriation of \$40,322,000 for the District's one-third share of Metro construction:

Included in this amount is \$18,736,000 requested for fiscal year 1969 which the House did not consider last June due to the impasse existing on the construction of the Freeway System. With the release of Federal funds held in reserve pending the appropriation of the District's share of fiscal year 1969 funds, the appropriations recommended in this bill and the Department of Transportation Appropriation Bill, the Authority will have a total of \$120,967,000 to embark on actual construction of the subway. [District of Columbia Appropriation Bill, 1970, Committee on Appropriations, U.S. House of Representatives, 91<sup>st</sup> Congress, 1<sup>st</sup> Session, Report No. 91-680, November 20, 1969, page 22]

Jack Eisen wrote that with these two actions by the Committees on the District of Columbia and Appropriations, "the final pieces of an intricate legislative jigsaw puzzle began to fall into place, virtually assuring metropolitan Washington that it will finally have the rapid transit system that has seemed so elusive." Chairman Natcher had "made good on his agreement" with President Nixon and Secretary Volpe to appropriate the matching funds.

WMATA had begun sending out invitations to officials and others for the December 9 ceremony to be held in Lafayette Park with President Nixon throwing an electrical switch to start the digging. [Eisen, Jack, "House D.C. Unit Backs 98-Mile Metro Network," *The Washington Post and Times Herald*, November 21, 1969]

On November 24, the House considered the two critical bills for the future of Metro. First was the National Capital Transportation Act of 1969, introduced by Chairman Fuqua. He described it as "a bill which makes it possible to realize the long-sought objective of a rapid rail transit system for the National Capital area; a bill which will provide to the Nation's Capital – the one major Capital in all the world which lacks such a system – a modern, high-speed, transit facility."

For 20 years, "it can be seen that a long bipartisan congressional-executive effort has steadily moved forward the cause of rapid transit for the National Capital region." He referred to "some 22 separate, significant congressional acts" that had led to this moment. It was "the fruition of the visionary hopes of the Congress, four Presidents, and the citizens of the eight jurisdictions making up this great National Capital area, for the building of a rapid transit system in the Nation's Capital."

The bill was consistent with the bill the Senate had approved on July 8. It approved the 97.7-mile system at a cost of \$2.5 billion. To pay for it, WMATA would issue \$835 million in

revenue bonds. The eight jurisdictions would provide \$573.5 million. The Federal share would be \$1.147 billion making for a 55-45 local-Federal match.

Representative Durwood G. Hall (R-Mo.) asked if Chairman Fuqua thought the estimated cost of \$2.5 billion would hold. The chairman replied that the committee has carefully examined that very question:

In the projections of the cost they determined by the finest engineering expertise in the country what the total cost would be to build this system today. Then they added a 10-percent contingency fee for items they were unaware of which might develop in construction. In addition, they have added a 5 percent compounded annually increased-cost-of-construction escalation. So, with that added to it, then we arrive at the \$2.5 billion total cost figure. So this has been taken into consideration.

Representative Broyhill provided a lengthy statement in support of Metro. Among many supportive statements, he said, "Mr. Speaker, the case for the approval of this proposed legislation is overwhelming." He concluded, "So, let us get going and get the job done."

Representative Gross, the penny-pinching Congressman from Iowa, responded that "we are today, with this bill, embarking on another trip into wonderland." He did not care how many subways were built in the District, Maryland, or Virginia. "All I want the people of this area to do is spend their own money to build them." If the system had "such a wonderful, rosy financial picture," it would pay for itself. "Why come to the Federal taxpayers?"

He was certain the system would cost more than \$2.5 billion. If anyone on the House floor wanted to stake his reputation on that cost estimate, he wished they would do so "now for the record, so that he can live with it in the days to come." Everyone recalled what happened with D.C. Stadium, by now renamed Robert F. Kennedy Memorial Stadium. The House was assured it would not cost the Federal payers a dime, "but it is costing the Federal taxpayers, and it has every day since it was completed and occupied."

Representative Broyhill replied that they did the best they could to come up with an accurate estimate, using the best information available from experts. "We have no way of guaranteeing to the gentleman or anyone else that it will cost less or more than we anticipate."

Representative Harsha, the highway supporter from Ohio, reminded his colleagues that he opposed National Capital Transportation Acts in previous years. He was concerned, back then, about efforts to curtail the highway program to create passengers for rail rapid transit:

But since that time these problems have been resolved, and I am firmly convinced that if we are going to have an integrated and effective transportation system in the District of Columbia . . . then we need this rapid transit system.

He responded to Representative Gross that because of the Federal Government's impact on the local economy, "we have a responsibility as the Federal Government to participate in this program."

Representative Gross did not agree that taxpayers from around the country had an obligation to spend hundreds of millions of dollars for Metro.

Representative Harsha tried again:

If the Government here is bogged down by inadequate transportation facilities or service, then service to the general public over the whole country suffers, and there would be less service to all concerned than if there were adequate transportation. That is part of the problem.

Representative Charles A. Vanik (D-Oh.) shared some of Representative Gross's concern. In general, he supported proposals for better public transportation:

The thing that concerns me about this bill is that the Federal commitment is so large that I am afraid it will destroy any real hope of getting any comparable kind of support for other mass transit needs in the rest of the country. I feel that this could just become a bottomless pit which could usurp incredible Federal revenues to support the system. I must confess to the gentleman, I do not think [it] is going to be a profitable operation. I must tell the gentleman that I cannot see where the revenues are going to carry the anticipated costs of this program. But if it would, it would be contrary to all of the experience we have had with transportation systems through the United States.

I think we have to assume this is going to be a money loser and we will be confronted with a deferral and a difficult experience in the repayment.

The thing that concerns me is that in getting into this very multibillion Federal outlay, we may be getting ourselves into a situation where we might have to continue to pour more work and more bureaucrats into the Washington area in order to support the subway system. I think we ought to try to decentralize the bureaucracy and remove from Washington the activities that can be carried on more efficiently in other areas.

Representative Broyhill assured Representative Vanik that only 20 percent of Federal employees were in the Washington area and that local communities "involved are guaranteeing that these revenue bonds will be paid. The cost to the Federal Government would be \$1.1 billion, not \$2.5 billion, and the Federal share was comparable to the Federal share for Federal-aid transit projects elsewhere.

Representative Harsha also defended Metro. WMATA "has had the best engineers and the best accountants available, and the most experienced people in the transit business estimating the amortization of this obligation and how the revenues can be realized."

Representative Gross asked for confirmation that \$41 million had been spent thus far. Chairman Fuqua confirmed that amount for preliminary studies and engineering work among other things:

Mr. Gross. So \$41 million has already been expended and not a wheel has moved, not a passenger has been transported anywhere, and not a shovelful of dirt has been turned toward an operating transit system or anything else. Is that correct?

Mr. Fuqua. If the gentleman will come up on December 9, we will be happy to let him participate in moving some of the first dirt, but there have been some soundings made, and there has been some dirt moved.

Mr. Gross. I thank the gentleman and good night.

Representative Nelsen told his colleagues that he and former Chairman Whitener, who had been defeated in his 1968 reelection bid, had been the authors of the original subway bill for the District of Columbia:

I am under no illusion that this will be a system that can be cheaply constructed. On the original estimates, I think many of us were well aware of the fact that we probably missed the mark by a great deal – and we apparently did underestimate the cost at that time . . . .

I think we must view everything we do regarding the District of Columbia in a little different light than when we deal with any other problem for any other city. This is our Federal City, our Nation's Capital, and I think when we look around, we will have to admit there are many areas we have overlooked to which somehow or other more attention should have been given. I am proud to see that in many respects some things we have done are working out. I hope this transit system works out as well as some of the other additions to the District government have worked out.

He introduced a lengthy statement in support of the bill. He recommended approval of the bill to any of his colleagues "who wish to provide a balanced transportation system for the Nation's Capital."

Representative Hogan, the new Congressman from Prince George's County, Maryland, spoke about the need for Metro, and responded to one of Representative Harsha's points:

The distinguished gentleman from Ohio commented that the system was not likely to ever show a profit. That may or may not be the case, but we do not require that our freeways show a profit, and the rapid rail transit system is as essential for the movement of people and goods as is our highway system. We need highways that are adequate to the population. We need rapid transit, and we need adequate bus service. No one mode of transportation can solve the problems of transportation in Metropolitan Washington.

Representative Gross introduced an amendment to strike out the provision authorizing a \$150,000 study of the "feasibility, including preliminary engineering, of extending a transit line in the median of the Dulles Airport Road from the vicinity of Virginia Route 7 on the 1-66 Route of the Adopted Regional System to the Dulles International Airport." He said, "this is an attempt to salvage a little something out of this bill if it is passed, and I hope it will not be passed." He thought they should wait until the bobtail system was completed "and see how it operates before sinking hundreds of millions of dollars" into extending the system:

Taxpayers have already been hit with a huge bill to provide for a four-lane highway from Dulles to the beltway. Ever since that highway was completed it has carried almost no

traffic. I do not know why the taxpayers should be called upon to spend another \$150,000 to find out what use is proposed to be made of this highway.

It is already there. It is usable. What else do they want? It is a mystery to me and I will be glad to yield to anyone right now to tell me why a \$150,000 study is needed when there is a superhighway already running from Dulles to at least the beltway.

Representative Broyhill pointed out that the study was about extending Metro to the airport. The airport, he added, was not for Virginia or Maryland. "We built it for the Federal Government."

Representative Gross was not impressed. "I do not know for whom Dulles Airport was built but it is still losing \$7 million a year." He had thought Friendship International Airport near Baltimore could have been expanded for Federal needs at a fraction of the cost of building Dulles International Airport. "Now you have a white elephant that is costing the taxpayers \$7 million a year and no evidence . . . as to when it will break even, much less pay a dime on the \$100 million dollar investment."

Representative Broyhill countered that "many of us in northern Virginia opposed the airport being constructed." Nevertheless, Congress had insisted on the airport. He did not deny it benefited people in northern Virginia, "but you did build it." Representative Gross interjected, "No; I did not."

Chairman Fuqua pointed out that the study had been initiated by the Senate bill. He did not know if extension of the system to the airport would ever be feasible, but it was widely supported among airport-related agencies and interests.

Representative Gross responded, "I do not doubt that every agency that spends money around here, and can put some more people on the payroll, are for this so-called study. There is nothing easier than the spending of other people's money."

Representative Dowdy interrupted the discussion to point out that Representative Gross may have misunderstood the purpose of the study. It had nothing to do with the Dulles access road. It was about extending Metro to the airport.

Representative Gross thought that subject had been studied already under the \$41 million expended thus far. "In other words, do we not have to spend another \$150,000 to tell us what to do with a super highway?"

Representative Dowdy again pointed out the study had nothing to do with the access road. He said, "this has to do with extending this subway another 25 miles in addition to the 97 miles."

Representative Gross, who apparently had misunderstood the provision, said, "This gets worse by the minute. Someone got away with a lot of money in the \$41 million study if that is the case."

Representative Broyhill agreed that the airport was "somewhat of a white elephant." The study was an effort to see if "we can make the airport more successful and more convenient insofar as

getting more people out to the airport, and in the long run maybe we can get back that \$150,000 through making the airport a going proposition.”

Finally, the House rejected Representative Gross’s amendment by a vote of 52 yeas and 256 nays. The House then voted in favor of the bill, 286 to 23. [National Capital Transportation Act of 1969, *Congressional Record-House*, November 24, 1969, pages 35511-35526]

Later in the day, Chairman Natcher introduced the District of Columbia Appropriations Act for FY 1970. He discussed the many aspects of the bill, including the provisions covering the District’s matching funds for Metro. After reciting the history of the impasse, including the assurances he had received from President Nixon, Secretary Volpe, Director Mayo of the Bureau of the Budget, and Director Airis, he said:

All these acts indicate clearly that we are in complete agreement that freeway construction as provided under the Highway Act of 1968 must proceed with rapid rail transit construction.

I will now recommend that the \$18,737,000 deleted from the supplemental appropriations bill together with the \$21,586,000 in the regular appropriations bill for the District of Columbia for fiscal year 1970 be appropriated for rapid rail transit construction. I will further recommend that the Federal share for rapid transit construction appropriated for fiscal year 1969 totaling \$43,772,000 be released.

He made one point very clear:

The Highway Act of 1968 must be complied with and as long as the freeway system proposed in this act continues underway we will, at the proper time, appropriate funds for continuing the construction of this rapid rail transit system. Mr. Chairman, both systems must continue underway, and if this takes place we are definitely of the opinion that this will be in the best interest of the Nation’s Capital.

Representative Davis joined several colleagues, including Chairman Mahon, in complimenting Chairman Natcher for the bill he had introduced:

I can assure my colleagues that no man worked more carefully or more effectively in order to assure a balanced transportation system for the District of Columbia than has the chairman of our subcommittee. Sometimes it has been necessary for him to be very firm, but anyone who is familiar with the legislative process and who is familiar with the approaches that are taken by people in and out of Government on some matters of this kind, will recognize that only through that kind of firmness, and a great deal of patience that went with it, has the goal and expressed desire of the President for a balanced transportation system for this metropolitan area come into being. I think this is a contribution for which history will properly reward the gentleman from Kentucky for his leadership in this area.

Following discussion of other provisions in the bill, the House voted 305 to 9 to approve it. ["District of Columbia Appropriations, 1970," *Congressional Record-House*, November 24, 1969, pages 35527-35529]

Jack Eisen wrote of House approval of the National Capital Transportation Act of 1969:

The action, so unexpectedly emphatic that it surprised even ardent subway backers, expands the 25-mile rail system, mainly within Washington, that was approved by Congress in 1965.

Because of some technical variances from the Senate bill, the Senate would have to concur before the bill went to the President for signature. "This is only a formality since the bill's Senate managers already have agreed to them."

In addition to discussing approval of Chairman Natcher's appropriation act, and the threat posed by Senator Proxmire, Eisen wrote, "Groundbreaking is scheduled for Dec. 9 in Lafayette Park."

[Eisen, Jack, "House Approval Clears Way For Area Rapid Transit Net," *The Washington Post and Times Herald*, November 25, 1969]

In a statement issued by the Department of Transportation, Secretary Volpe said he was "absolutely delighted by the emphatic support" for Metro by the House of Representatives. Coupled with previous Senate action, the House gave "a hearty impetus to a project which is vital to the well-being of the Washington metropolitan area and I am grateful to those who supported the program." Metro, he said, would "pull this city together":

Cities originally evolved to provide opportunities for their citizens. Today, because they lack good public transportation, most of our cities isolate people from jobs, education, entertainment, cultural activities and community affairs. With the start of the Metro system, Washington begins the road back.

A dream of nearly half a century is now to be a reality.

The Senate acted on the bill on December 2. In a floor speech, Senator Tydings explained, "Now that the controversies and delays are past history, it is time to go full speed toward completion of the full 98-mile system at the earliest possible date." To complete action, Majority Leader Mansfield requested Senate concurrence in the bill; the Acting President pro tempore stated "the motion was agreed to" without a discussion or vote, reflecting its noncontroversial nature.

As the *Star* reported, the last obstacle was Senator Proxmire's vow to reduce spending for the system. [National Capital Transportation Act of 1969, *Congressional Record-Senate*, December 2, 1969, pages 36313-36314; Grigg, William, "98-Mile Metro Is Authorized By Congress," *The Evening Star*, December 2, 1969]

## Considering the Freeways

Although Mayor Washington had rejected the U Street/Florida Avenue corridor for the North Leg Freeway, *Post* editors were skeptical. Comparing the route to “a cat with nine lives,” the editors wrote that the “controversial ghetto route” kept “reappearing to cloud public discussion as an alternative to “the officially favored K Street tunnel as a means of bringing freeway traffic across town.” By confirming the study, DeGast had inadvertently confirmed “the charges of anti-freeway forces that more than 2,000 homes in the inner city would be destroyed by completion of the freeway program.”

The editors thought that if District Highway Department officials were left to their own devices, they “would prefer to use the U Street route because it would be more easily engineered and would cost less than K Street.” Mayor Washington had emphatically rejected the route, calling it “unacceptable to the city.” He even ordered that the routing be removed from official highway planning maps.

“Unfortunately,” the editors speculated, “we have not heard the last of the U Street proposal.” The Federal-Aid Highway Act of 1968 had ordered a study of the U Street routing along with the K Street tunnel and “other alternatives.” The editors urged Mayor Washington to “make it clear to the consultants doing the study that they must find a route other than U Street if they hope to get the North Leg built.” [“The North Leg Again,” *The Washington Post and Times Herald*, November 25, 1969]

City officials had still not decided how to comply with the requirement in the 1968 Act for a study of the North-Central Freeway. With 15 months elapsed since the 1968 Act started the clock ticking on an 18-month study, the city was still planning how to meet the deadline of February 23, 1970. Although the city had solicited bids for consultants to conduct the study, the *Post* reported on November 27:

No decision has been made on the form the report will take, although several private consulting firms have proposed to undertake a feasibility study of the route.

But one city official hinted Sunday that the city may decide not to make a feasibility study at all, but merely report on the freeway to Congress.

One consultant proposal under consideration, by Wilbur Smith and Associates and Alan M. Voorhees, “pledged to examine the location of the route, its cost, its effect on the surrounding community, the displacement of homes and its engineering implications.” Both consultants had been involved in previous studies of the North-Central Freeway:

Some city officials favored the study, while others argued for an in-house study:

But as one federal officials said, having an in-house study would be “like having 50 other children tugging at our coattails. The way it’s being approached here is that we’ll have outside technical assistance.”



City officials recognized that anti-freeway forces considered the Smith and Voorhees firms as pro-highway and, therefore, would consider any study they conduct to be suspect.

Mayor Washington and Secretary Volpe would, in the end, decide whether to hire a consultant or conduct an in-house study.

Appearing on WTOP-TV's "Washington News Conference" on Sunday, November 30, Deputy Mayor Fletcher said that with time so short, "We may well have to do an in-house study with our own people and with the Bureau of Public Roads." The city would have to hold public hearings before submitting its report to Congress by the February 23 deadline. The city, he said, also had to report on the North Leg and South Leg segments of the Inner Loop Freeway. [Price, Richard E., "NE Route Feasibility Study May Be Undertaken," *The Washington Post and Times Herald*, November 27, 1968; "3 Controversial Freeways May Be Studied by District," City Life, *The Washington Post and Times Herald*, December 1, 1969]

On December 3, Mayor Washington and Chairman Hahn announced that the District Department of Highways and Traffic would prepare a study of routes, inhouse, for the North-Central Freeway and the South Leg Freeway. The study had to be completed by the February 23 deadline or, under the 1968 Act, the approved corridor for the North-Central Freeway would be mandated for construction. The scope of the study was uncertain, prompting Director Airis to say:

We'll have to get busy immediately; we don't have much time. Anything we do will have to be quick. We simply don't have time to look at it in depth.

The study would necessarily rely on existing reports, although Airis said the department might hire consultants for small segments of the study.

Airis promised that the city would hold public hearings between January 12 and February 23 before submitting its report to Congress. The hearings would ensure "local participation" in the study while the city provides the "technical end."

At the same time, Mayor Washington and Chairman Hahn announced that they would ask Congress for an 18-month deadline of the time for a study of the North Leg of the Inner Loop. They needed the time because there had been "no thorough studies and no public hearings" on the route. [Green, Stephen, "Delay Asked on North Leg Planning," *The Evening Star*, December 5, 1969; Prince, Richard E., "Deadline Is Pushed On Freeway Study," *The Washington Post and Times Herald*, December 5, 1969]

## **Launching Metro**

On December 2, WMATA announced that the groundbreaking ceremony for the start of Metro construction had been moved from Lafayette Square to Judiciary Square at the request of the Nixon Administration. Neither the White House nor WMATA explained the move, but the *Post* speculated that the security of the White House, across Pennsylvania Avenue from the park, may have been a factor. The capacity of the park may have been another factor. WMATA expected a crowd of about 2,000 people; U.S. District Court Judge George L. Hart, Jr., had limited the park to 500 people in advance of antiwar demonstrations in November.

Whatever the reason, the ceremony would be held in Judiciary Square at 2:30 p.m. Officials did not know if President Nixon would attend, but were hopeful he would. If so, his role would be different. Instead of throwing a switch to start an auger, as was planned at Lafayette Park, he would participate in the more traditional turning of shovelfuls of earth. [“Metro Ceremony Shifted to New Plot,” *The Washington Post and Times Herald*, December 3, 1969]

The day of the announcement, WMATA opened the first construction bids for the G Street section of the subway. An Ohio construction contractor submitted a low bid of \$12.3 million, which was 19 percent above the engineers’ estimate. The bid came from the joint venture of American Structures, Inc., and the Mining Equipment Manufacturing Corporation, both of Youngstown, Ohio. A New York firm submitted the high bid of \$17.4 million.

WMATA’s chief engineer, Roy T. Dodge, said he was “disappointed” by the low bid. All the bids would be studied to ensure the contract was awarded not only to the lowest bidder but the most responsive bidder. The fact that the bids came in higher than expected raised an initial concern that the estimated cost of Metro, on which the financial plan was based, might have to be increased. Dodge said, “We’ll have a better idea after our first year of awarding contracts.” [Eisen, Jack, and Fiske, Phineas R., “\$12.3 Million Metro Link Bid Submitted,” *The Washington Post and Times Herald*, December 3, 1969; Green, Stephen, “Officials Fear 20% Increase in Metro Cost,” *The Evening Star*, December 3, 1969]

On December 3, the Senate Committee on Appropriations released the FY 1970 Department of Columbia Appropriations bill as prepared by Chairman Proxmire’s subcommittee. The bill cut requested funds across the board for the city. With only 7 months left in the fiscal year, he said, “I feel it is unnecessary to fund this bill in full.” In his view, the amount the city requested and included in the approved House bill was inflationary. The Proxmire bill appropriated \$645 million or \$37.7 million less than the House had approved and \$107.6 million less than the city had requested. The bill also cut \$29.7 million in new construction projects from the House plan and \$7.8 million in operating funds. The bill called for a Federal payment of \$100 million.

The report noted that the District of Columbia would receive an estimated total of \$210,328,000 under Federal grant programs. Many other jurisdictions also receive funds under these programs, but “the District fares exceptionally well in almost every category.” The District and capital region also received Federal assistance, other than grants, totaling \$239,414,308. A study of this assistance “indicates that almost without exception it again does extraordinarily well either as to size, scope, or level of funding.” The report cited as an example the difference in Federal-aid for the BART system (8.4 percent of a total estimated cost of \$1.3 billion) and aid for Metro (46 percent of \$2.5 billion).

The report discussed the concern about inflation as reflected in President Nixon’s September 4 message calling for a reduction in Federal construction and for State and local governments to reduce their public works projects. The next section in the report discussed the Metro system, providing a straightforward summary of its history, estimated cost, and financing plan. Although Chairman Proxmire told reporters the project “flies in the face” of the fight against inflation, his subcommittee and the full committee had outvoted him on reductions in appropriations for Metro construction. [District of Columbia Appropriations Bill 1970, Committee on Appropriations,

United States Senate, 91<sup>st</sup> Congress, 1<sup>st</sup> Session, Senate Report No. 91-564, December 3, 1969, pages 50-51; Levey, Robert F., “Budget Cuts Explained,” *The Washington Post and Times Herald*, December 5, 1969; Grigg, William, “D.C. Budget Slashed by Senate Unit,” *The Evening Star*, December 3, 1969]

Although Congress would not complete the appropriations process for several weeks, the Senate Appropriations Committee’s action ensured appropriation of the District share of construction funds.

On December 9, officials and a crowd of about 2,500 gathered in Judiciary Square at 4<sup>th</sup> and E Streets, NW., for the groundbreaking for Metro construction. President Nixon, who had gone to New York City to attend the National Football Hall of Fame Dinner at the Waldorf-Astoria Hotel, did not participate. (At the hotel, he entered through a garage entrance and did not see the shouting, window-smashing mob demonstrating against the Vietnam War.) Secretary Volpe, representing him, announced that earlier in the day, President Nixon had signed the National Capital Transportation Act of 1969 (P.L. 91-143), making official the full 97.7-mile Metro system.

Four hours before the ceremony, WMATA awarded the first construction contract to a joint venture of Gordon H. Ball, Inc., Danville, California; J. F. Shea Company, Inc., Oakland California; and Norair Engineering Corporation, Washington. The contract involved three-quarters of a mile of subway tunnel from 4<sup>th</sup> and E Streets to 9<sup>th</sup> and G Streets, NW. The winning bid was for \$33.7 million. The joint venture also was a major contractor on the BART line.

Participants in the 45-minute ceremony outside the D.C. Juvenile Court building at Judiciary Square included Secretary Volpe, Mayor Washington, Governor Mandel, U.S. Park Police Chief Grant Wright, and area officials and Members of Congress. Chairman Babson, who planned to retire from public service at the end of the year, was master of ceremonies for the event. Jack Eisen reported:

The ceremony was marked by restrained oratory in which speakers noted the decade of efforts to get started on the rail system and its bright potential, chiefly as an instrument for the region’s social and economic advancement.

The unintentional high points were a side comment by Mayor Washington and a slip of the tongue by Gov. Mandel, accompanied by a slip of technology.

The mayor smilingly began his talk by noting, “I am delighted to be here to cut another ribbon.” This was an obvious reposit to public remarks by Rep. Joel T. Broyhill (R-Va.), a key House sponsor of rapid transit legislation, who called the mayor a fine ceremonial ribbon-cutter but a poor administrator. Broyhill grinned broadly at the mayor’s comment.

Mandel’s prepared speech said he was proud to help “illuminate” a map showing the Maryland part of Metro, but his tongue slipped and he said “eliminate” – and sure enough, the map failed to light when he and Mrs. Spellman threw the switch. An electrician later came successfully to the rescue amid audience applause.

Secretary Volpe said construction of Metro would be a model for cities around the country. President Nixon, he said, had instructed the Department of Transportation to establish a computer databank on construction of Metro to be available to help other cities plan subway systems. He predicted that Metro would “bring new life to Washington, new growth, new development, new improvement, much greater than any of us have realized.”

Those shoveling pre-softened earth were Secretary Volpe, Mayor Washington, Governor Mandel, Chairman Hahn, Chairman Babson, Prince George’s County Commissioner Spellman, and Falls Church City Councilman Lee M. Rhoads. All but Secretary Volpe used traditional shovels:

Volpe used a simple garden spade donated to the old National Capital Transportation Agency in 1965 by local units of the American Automobile Association with the advice to stop talking and start digging. The donation marked an about-face by an organization previously critical, along with others in the highway field, of the subway plan.

“Not content with a single spade full,” Eisen added, “the seven officials dug in time and again, mainly for the benefit of photographers.”

Senator Spong, representing Virginia, and Broyhill had attended the event but had to return to the Capitol before the groundbreaking.

WMATA had lined up 34 gold-painted shovels for the event. Cody Pfanstiehl, WMATA’s director of community relations, shouted, “It’s a do-it-yourself subway,” as he handed shovels to members of the audience. The *Star* reported, “One after another they shoveled to the strains of march music from the U.S. Navy Band.”

Asked about the map glitch, Pfanstiehl said, “I don’t know how much the map cost. I haven’t received the bill yet.”

The ceremony ended as rush hour was beginning, leaving many members of the audience unable to find a taxi. One woman said, “I wish we had the subway now.” [Eisen, Jack, “Ground is Broken on Metro, Job Let,” *The Washington Post*, December 10, 1969; “Angry Mob Mars Nixon Visit to N.Y.,” *The Washington Post*, December 10, 1969; Green, Stephen, “Do-It-Yourself Event Marks Start of Metro,” *The Evening Star*, December 10, 1969]

In a formal statement issued by the Department of Transportation, Secretary Volpe called the start of construction “an excellent example of a metropolitan approach to an urban issue. The approach which exemplified a spirit of cooperation in the highest sense, is one worthy of duplication by urban areas in other parts of the country.” The groundbreaking was “demonstrable evidence of achievement through combined efforts of men of goodwill dedicated to the best public interest.”

### **A Departure and an Arrival**

Deputy Mayor Thomas W. Fletcher, who had been appointed along with Mayor Washington by President Johnson in September 1967, had announced on October 8 that he would leave office on December 15. He was returning to his home State of California to become city manager of San

Jose. In July 1967, he had left his position as city manager of San Diego to drive his family across the country to become Deputy Assistant Secretary in the Department of Housing and Urban Development. The *Post* wrote:

An FBI agent stopped him along the way, put his family in a hotel and put him on an Air Force plane for Washington and a presidential interview. President Johnson had heard about him, wanted him for the D.C. job and put out a nationwide alert to find him

On September 6, 1967, President Johnson had announced his intention to nominate Walter E. Washington as Mayor and Fletcher as Deputy Mayor. As city manager of San Diego from 1961 to 1966, the President said, Fletcher had “won a national reputation as one of America’s outstanding city executives.” His pioneering work advancing city management-budgeting techniques had served as a model for other cities:

He is an innovator. He is experienced, highly respected, and eminently qualified for his new job. He is a man who can make government work for the good of the people it serves.

During the freeway battles, Fletcher had taken the lead, allowing Mayor Washington to remain, politically, above the fray. But as a *Post* article about the resignation pointed out:

One of the low points in his career here came last spring, when word of the negotiations [with staff of the House Committee on Public Works] leaked out and he faced 50 indignant freeway opponents in the City Council chambers.

“You’re a liar, Fletcher, and you’re yellow,” one shouted at him as the meeting broke up.

Fletcher stopped briefly, as if to reply. Then he turned, his shoulders slumped and walked slowly back to his office.

His frustrations over the freeway issue and other aspects of his job seemed to weigh particularly heavy on him during last March and April. He spent a week in the hospital in April when an ulcer he had had for several years flared up.

While Mayor Washington was a political leader, Fletcher’s job was to modernize the city government:

The D.C. government was a relic of the horse-and-buggy era when Fletcher came, a creaky and cumbersome bureaucracy. He brought about a difference, if not a transformation.

The *Star* reported:

He could not read his resignation statement yesterday for fear of breaking down, he said, but he did manage to tell reporters in the District building that the San Jose offer “was a professional opportunity that I could not resist.”

Mayor Washington, in Boston for a speech, told Fletcher and reporters via speaker phone that, “I regard you, Tom, as the top man in the nation in municipal management”:

The mayor cited his right-hand man’s qualities in emotional tones: “Sensitivity, commitment and competency.” Asked about a successor, he said, “I haven’t gotten over the shock of the situation.”

. . . Fletcher, a tall, silver-haired man of 45, stood quietly with reporters as Washington spoke over the phone. “This is the guy closest to me in the city,” the black mayor said of the white administrator before listing the crises they had been through, including the riots of April 1968 and Resurrection City.

The *Post* reported that regarding a successor, Mayor Washington had said, “When you’ve got the No. 1 city administrator in the country, you usually don’t think about who’s No. 2”

President Nixon said he would accept the resignation “with extreme regret, as he has served the nation’s capital with enormous distinction.” [Moore, Irna, “Fletcher Quits City Post for San Jose Job,” *The Washington Post*, October 9, 1969; Milius, Peter, “Fletcher: Man for All Cities,” *The Washington Post*, October 9, 1969; Basham, William, “D.C. Deputy Mayor Leaving Dec. 15,” *The Evening Star*, October 9, 1969]

On November 12, President Nixon announced that he had chosen Graham W. Watt, city manager of Dayton, Ohio, to be Fletcher’s successor. Although a native of Elizabeth, New Jersey, Watt had been raised on Maryland’s Eastern Shore. He had been city manager of Alton, Illinois, and Portland, Maine, before taking the position in Dayton. Fletcher described Watt as a “city manager’s city manager – probably one of the best city managers in the country today.” He had recommended Watt to Mayor Washington.

A *Star* profile of Watt began:

Graham W. Watt is the man credited with changing the direction of this industrial city from a brick-and-mortar government to an era of social concern.

Since coming to Dayton 2½ years ago, Watt had instituted such federally backed projects as Model Cities and the Concentrated Employment Program, both of which he will encounter again as deputy mayor of Washington.

In fact, Watt is no stranger to Washington or its programs. He probably has spent more time in the Capital than anyone else from Dayton except its congressman.

Most of the time, he returned to Ohio with new federal commitments for grants-in-aid. He is well known within the federal agencies as an administrator who can spend federal dollars quickly and visibly.

Watt, the profile stated, was “regarded as a calm, efficient administrator who never lost his cool.”

During a White House press conference, Watt said he would work toward President Nixon's goal of making "this city of Washington not only the first city of the nation, but one of the leading cities of the world." The job was, he said, a "great challenge and more than that a great opportunity."

Mayor Washington expected Watt to play the same role as Fletcher. "We [hope to] develop the kind of Mr. Inside-Mr. Outside relationship based on our own personal relationships that seems to transcend the professional ones."

Watt told reporters that he realized his new job would involve more pressure than his former position. However, he expected "to meet the community on its terms." He said:

I know it sounds kind of preachy, but I believe we have a tremendous job to do to make the cities serve today's people. And I think that whatever it takes to do that job, we've got to do.

Making citizen participation in government decisionmaking effective might be, he said, "the toughest job for a city manager in the country." That was, however, "part of the fascination and the challenge of the job here."

He and Mayor Washington would have to work out their relationship over time. "I'm a successor, not a replacement for Mr. Fletcher. I couldn't try to be anything other than my own man."

He also indicated that he was a registered independent and planned to stay that way. [Horner, Garnett D., "Dayton's Graham Watt Named D.C. Deputy Mayor by Nixon," *The Evening Star*, November 12, 1969; Goldwyn, Ronald, "Watt No Stranger in D.C.," *The Evening Star*, November 12, 1969; Levey, Robert F., "Deputy Mayor Named," *The Washington Post and Times Herald*, November 13, 1969; Moore, Irna, "Graham Watt: Cool Professional," *The Washington Post and Times Herald*, November 13, 1969]

The Senate confirmed Watt's appointment on December 11 as Deputy Mayor Fletcher was saying his goodbyes to the city. The Metropolitan Washington Board of Trade honored Fletcher at the Mayflower Hotel on December 9.

On December 12, he joined Mayor Washington and Chairman Hahn in a farewell meeting with President Nixon at the White House. Before departing for the White House, Fletcher had one last meeting with reporters, an opportunity to fulfil a promise he had made 2 years earlier. He handed out six envelopes that contained jigsaw-puzzle pieces of a report he had withheld regarding the District's juvenile delinquency programs. Fletcher had said 2 years earlier, that "before I leave office, I am personally going to hand you a copy." It had become a standing joke in the District Building, with reporters periodically asking "Whatever happened to the McGee report?" Handing out the envelopes with the chopped up report, he jokingly told reporters to "work together" to reassemble it.

After leaving the White House, he got into his car for the drive to San Jose. [Sarrow, Ronald, "McGee Report Issued In Piecemeal Fashion," *The Evening Star*, December 12, 1969; Moore, Irna, "Fletcher Bids Off Farewell," *The Washington Post and Times Herald*, December 13, 1969]

Graham W. Watt took the oath of office as Deputy Mayor on January 2, 1970.

Watt had met his wife Mary Irish of Baltimore, known as "Bidi," at Washington College in Chestertown, Maryland. They had a son and daughter, 13-year old Terry and 11-year old Laurie. The Watts moved into an apartment in Van Ness North at 2001 Veazey Terrace in the District's Forest Hills neighborhood near Connecticut Avenue and Rock Creek Park.

### **The District's Appropriation Act, 1970**

The District of Columbia Appropriations Act, 1970, had not yet cleared Congress. Chairman Proxmire brought the bill to the Senate floor on December 11. The *Post* expected a floor fight over several issues, including the freeway program. Senators Tydings and Eagleton of the Senate District Committee believed the bill intruded on their jurisdiction:

Proxmire's budget cutting also abolished 252 jobs in the department of highways and traffic – all of them positions used in connection with freeway construction.

The city has been holding those positions vacant for the time when work begins on the entire freeway system. Highway department officials said yesterday they planned to fill at least 50 of those positions in the next few months for building of the Three Sisters Bridge.

If other stalled freeway projects, including the North Central Freeway and the North Leg, are approved soon, all 252 positions would be needed, according to Deputy Highway Director R. Dana Wallace.

Restoration of abolished positions would have to be requested in future city budgets if the freeway program is to be completed. [Moore, Irna, and Jewell, David A., "Senate Floor Fight is Expected Over District Budget," *The Washington Post and Times Herald*, December 11, 1969]

Although several portions of the bill generated lengthy debate, provisions related to freeways or Metro did not. Chairman Proxmire explained that because of the delay in passing the Revenue Act, 5 months of FY 1970 had passed. That, plus the obligation to support President Nixon's efforts to reduce inflation by curtailing new construction starts, resulted in a reduced capital outlay program. The bill "is \$70 million below budget estimates and \$30 million below the House bill."

He also pointed out that the Revenue Act had limited District jobs to 41,500, but his bill reduced that total by 700. The Appropriations Committee "strongly urges vigorous and inclusive study and critical analysis of the District's present and future manpower needs with a first-year goal of reducing by at least 1,000 the total of authorized positions established in this bill."



He explained that the bill appropriated the full amount for WMATA.

The Senators discussed several issues at length, but the expected floor fight over freeways or the unfilled positions related to the freeways did not materialize. The Senate approved the bill, 92 to 0. [District of Columbia Appropriations, 1970, *Congressional Record-Senate*, December 11, 1969, pages 38352-39366; the brief discussion of Metro is on 38354]

A House-Senate conference committee met to reconcile differences between the two appropriations bills, with the *Post* predicting a Proxmire-Natcher clash on several issues, particularly the 252 positions for freeway construction. Chairman Proxmire promised to “go to the mat” in conference over the personnel issue. [Moore, Irna, and Levy, Robert F., “City’s Budget Faces Hill Conference,” *The Washington Post and Times Herald*, December 14, 1969]

The conference committee released a reconciled bill on December 15. As the *Star* pointed out, “In another unusual turnabout for the city’s finances, House-Senate conferees asked congress today to approve a final ‘compromise’ District budget that is smaller than either of the earlier versions passed by the House and the Senate. The bill totaled \$650.3 million, including a Federal payment to the city of \$104.2 million. Funds for FYs 1969 and 1970 for Metro construction and restoration of jobs in the Department of Highways and Traffic were included. [Grigg, William, “\$650 Million District Budget Is Approved by Conferees,” *The Evening Star*, December 16, 1969; District of Columbia Appropriations, 1970, Conference Report, U.S. House of Representatives, 91<sup>st</sup> congress, 1<sup>st</sup> Session, Report No. 91-754, December 15, 1969]

The Senate approved the conference report the following day with brief discussion, none related to Metro. [District of Columbia Appropriation Bill, 1970-Conference Report, *Congressional Record-Senate*, December 16, 1969, pages 39329-39331]

Chairman Natcher brought the conference report to the House floor later in the day. The bill, he explained, restored the positions the Senate bill had cut from the District Department of Highways and Traffic. Most of the positions were “directly connected with the Department’s major construction programs”:

The freeway impasse is finally broken and these positions will be necessary to enable the freeway system program to get underway. The Department has over \$200 million in previously appropriated funds and they are available to fund these positions as well as the contracts for actual construction.

The House approved the conference report without a recorded vote. [Conference Report on H.R. 14916, District of Columbia Appropriations, 1970, *Congressional Record-House*, December 16, 1969, pages 39387-39391]

President Nixon signed the bill on December 24 (P.L. 91-155).

### **Pondering the Bad Options**

As 1969 neared an end, officials looked to February 23, 1970, as a date of reckoning for the North-Central Freeway and the North Leg of the Inner Loop Freeway. Section 23 of the Federal-

Aid Highway Act of 1968 had given the District of Columbia 18 months to study what to do about these two freeway segments:

The government of the District of Columbia and the Secretary of Transportation shall study those projects . . . and shall report to Congress not later than 18 months after the date of enactment of this section their recommendations with respect to such projects including any recommended alternative routes or plans, and if no such recommendations are submitted within such 18-month period then the Secretary of Transportation and the government of the District of Columbia shall construct such routes, as soon as possible thereafter, as required by subsection (a) of this section.

The city council had spent nearly a year of that time fighting Section 23's mandate before reluctantly agreeing on August 9 to comply. Several months passed while officials debated whether to conduct the study inhouse or by hiring a consultant. When the city decided to hire a consultant, Chairman Fallon of the Public Works Committee and Chairman Natcher wrote to President Nixon to object. They said that too much time had been spent talking:

Testimony before the Committee on Public Works indicated that enough money had been spent on endless studies and that positive action was required in order to complete the interstate system in the District of Columbia.

They said the 1968 Act "was not intended as a vehicle for the complete restudy of half the District of Columbia." As the *Post* put it, they "made it clear that they did not want another report challenging the congressional mandate. They apparently felt that a report from the D.C. highway department would not."

The city announced on December 3 that the District Department of Highways and Traffic would conduct the study. The announcement included the intent to ask Congress for an 18-month extension of the deadline for the North Leg, which had not been subject to public hearings. Neither Chairman Fallon nor Chairman Kluczynski was receptive. Chairman Fallon said, "They've had enough time. We gave them 18 months. That's what they asked for and that's what we gave them." With Congress in recess, he did not expect his committee to take up the matter until after January 15. Committee sources told reporters that the city had virtually no chance of an extension, which would require a new law to amend Section 23.

None of the alternatives the city faced was favorable. The North-Central Freeway had been one of the most controversial segments of the city's Interstate System. Maryland and the District had agreed on the alignment along the Baltimore and Ohio Railroad tracks to reduce dislocation of families, but opposition to the route continued. The city's rehabilitation and rental of some of the homes taken for the route had reflected the city council's abandonment of the alignment, regardless of Section 23.

As for the North Leg, two alignments had been identified to provide the link between the Potomac River Freeway and the North-Central Freeway. Mayor Washington had made clear the city would not seriously study one of them, along Florida Avenue/U Street, NW. The alignment had been removed from District Highway Department maps, which now showed the North Leg in

a tunnel under K Street, NW. The city wanted flexibility to consider the best location for the other alternative, possibly to shift it to some other route between K and U Streets.

Chairman Hahn said on December 23 that the city council would make a recommendation after holding a public hearing in January. "I believe we must comply with the law." [Prince, Richard E., "D.C. Freeway Dispute Coming to Head," News Analysis, *The Washington Post and Times Herald*, December 23, 1969; Green, Stephen, "North Leg Decision Planned by Feb. 23," *The Evening Star*, December 24, 1969]

### **The Three Sisters Bridge Battle**

On January 7, Roberts Owen again asked the U.S. Court of Appeals to block further construction of the Three Sisters Bridge. He claimed the District and Federal governments were dragging their feet in U.S. District Court, which had refused an injunction on bridge construction. The *Post* reported:

Government attorneys denied any intentional delay on their part and contended that Owen and his clients had swamped them with various legal motions and demands for documents in preparation for the court suit . . . .

Owen argued . . . not only that the government was stalling but that it was planning to let contracts later this month on the east leg of the inner loop, a segment of the city freeway system of which Three Sisters Bridge is also a part. Government attorneys said the east leg has no direct connection with the bridge and should not be included in the litigation.

The court did not issue a ruling on the request for an injunction. ["Freeway Foes Seek Halt of Bridge Work," *The Washington Post and Times Herald*, January 8, 1970]

Because plaintiffs and defendants filed motions for summary judgment in their favor, the case never went to trial. On January 12, 1970, Judge Sirica granted the Federal and District of Columbia defendants' request for summary judgment and denied the plaintiffs' request for an injunction stopping construction of the Three Sisters Bridge.

The decision turned on the phrase in Section 23 directing that construction proceed "in accordance with all applicable provisions of title 23 of the United States Code." Federal and District officials argued that the requirement applied only to the Title 23 provisions dealing with actual construction, not the planning and public hearing requirements also in Title 23. They also argued that the intent of Congress was to require construction of the bridge, not to impose additional obstacles to its construction. Plaintiffs contended that compliance with Title 23 requirements meant the bridge project was subject to the planning and public hearing requirements.

Judge Sirica found that:

The resolution of this suit thus comes down to a question of statutory interpretation. The court is of the opinion that the interpretation of Section 23 of the 1968 Highway Act proposed by the defendants is the most reasonable. The court has taken into

consideration the fact that the Act was passed soon after the Airis decision, supra, which had held up the construction of the Bridge pending compliance with the planning provisions of the D.C. Code. That this was a factor motivating the passage of this legislation is shown by the opening language of Section 23(a) “[n]otwithstanding \*\*\* any court decision\*\*\*to the contrary.” The intent of Congress is most clearly shown by the provision that work shall commence on the bridge “[not] later than 30 days after the date of enactment.” The court believes that in passing this legislation, Congress intended that the District of Columbia commence construction on the bridge project as soon as possible, and that no further planning or hearing requirements of Title 23 need be complied with. [*D.C. Federal of Civic Associations et al., v. John A. Volpe et al.*, Civ. A. No. 2821-69, U.S. District Court District of Columbia, January 12, 1970]

Owen told reporters he would appeal the ruling to the U.S. Court of Appeals.

The following day, city highway officials submitted their recommendations in response to Section 23 of the 1968 Act to Mayor Washington and Chairman Hahn.

The District Highway Department supported the North-Central Freeway to Silver Spring, but proposed a route that would take 54 fewer residences and 3 fewer businesses. Total displacement would be 223 residences and 121 businesses. The route remained in the Baltimore and Ohio Railroad corridor, but would be shifted further west from 10<sup>th</sup> Street, NE., in the Brookland area. With the shift, the alignment would not affect the homes that had been rehabilitated and rented.

Support for the freeway was based on relief of traffic congestion in the central city, particularly in the parallel 16<sup>th</sup> Street, NW., corridor:

A point that tends to be overlooked is that change in the vicinity of the proposed North Central Freeway is going to occur whether the facility is built or not. The Silver Spring line of the Metro system is programmed for the same general location of the freeway – adjacent for most of the route.

Bruce T. Weaver, president of the Brookland Civic Association, opposed the recommendation despite the shift in alignment to protect the rehabilitated homes. “Freeways are nothing more nor less than a semblance of the plantation philosophy.”

The District Highway Department recommended building the East Leg of the Inner Loop to connect with the Baltimore-Washington Parkway and the South Leg, as revised in response to the objections of the Fine Arts Commission, to connect the Southwest Freeway with the Theodore Roosevelt Bridge. The department also favored construction of the South Leg Freeway with tunnels under the Lincoln Memorial and the north edge of the Tidal Basin, the tunnels to connected with a depressed roadway along Independence Avenue. Airis pointed out that this plan would permit the depressed roadway to be converted into a tunnel.

Airis suggested that the city council ask Congress for an 18-month delay in submitting recommendations on the North Leg of the Inner Loop.

Mayor Washington forwarded the department's recommendations without comment to the city council. Chairman Hahn was doubtful that Congress would approve a request for more time to study the North Leg Freeway, but announced plans for public hearings to begin on January 29 and 30, and February 3 through 9 if necessary. He added that the hearings would be televised by the area's public broadcasting station, WETA (channel 26). No one, he said, would be excluded from the hearings.

ECTC's Booker told a press conference that he had not read the department's report, but could tell from a summary that it did not reflect the views of citizens "because it was drawn up by a bunch of bureaucrats." He joined the D.C. Federation of Civic Association in demanding that the hearings be held at night "so that working people will not be economically penalized for attendance and participation." Booker objected to the plan to televise the hearings, claiming it was "a clear attempt by the D.C. government to circumvent public hearings . . . and a clear attempt to keep the public from voicing its opinions." [Prince, Richard E., "New NE Freeway Plan Takes 54 Fewer Homes," *The Washington Post and Times Herald*, January 14, 1970; Green, Stephen, "Fewer Homes Hit In North Central Freeway Revision," *The Evening Star*, January 13, 1970]

As the *Post* pointed out, WETA also was concerned that the presence of television cameras might affect the witnesses and members of the city council:

Channel 26 officials realize they may run into special problems at the hearing, particularly if those witnesses who have threatened disorder are successful in creating it . . . . Channel 26 may turn their cameras off if they find their presence has dramatically changed the nature of the hearings. ["TV Eye on the Council," *The Washington Post*, January 26, 1970]

*Star* editors considered the District Highway Department's recommendations "a responsible endeavor to comply" with Section 23 of the 1968 Act. The request for an 18-month delay on the North Leg was reasonable because, as a practical matter, the city was nowhere near agreeing on a location for the link in the Inner Loop Freeway. "And the over-all transportation picture might well benefit by giving more study to this most complex of all the projects, while other less complicated projects proceed.

The editors favored the all-tunnel option for the South Leg, even though it was more costly. The all-tunnel option had been created to satisfy NPS officials that impacts on the surrounding park would be minimized. "Since federal dollars will pay the cost in either event, this is a choice which Congress might well desire to make itself."

The editors also supported the North-Central Freeway routing. The highway agency's report "persuasively reaffirms the need to build" the expressway.

Despite these positive thoughts, the editors realized that the report was not the final work. The council would hold hearings that based on experience "are not apt to produce much in the way of constructive suggestions about how to make freeways – any freeways – really work." The proposals would be "assailed bitterly, and in some cases hysterically by critics who broadcast

their intention before the proposals were even disclosed.” After the hearing, Mayor Washington would send his recommendations to Congress, which would have the final say.

The editors hoped city officials would keep two points in mind in deciding whether the freeway system should be completed. First, “Congress already has decided that – in the affirmative.” Second, other provisions in the 1968 Act had liberalized right-of-way rules to reduce the hardship involved in relocation. City officials had not fully explored this liberalization, but if they did, they might find that they could complete their task “with less negativism – and considerably more hope of broader community support.” [“Highway Hysterics,” *The Evening Star*, January 16, 1970]

The *Post*'s editors also were encouraged. The city council faced choices that it must make before submitting its recommendations to Congress by February 23. For example:

The council must choose between reaffirming its endorsement of a freeway route out New York Avenue to Maryland and going back to the discarded North Central Freeway (and its companion Northeast Freeway) along the B. and O. railroad tracks, which both the Highway Department and Maryland favor.

The North-Central Freeway, the editors pointed out, would displace more homes and businesses, “but New York Avenue would be much less convenient and would pour unwanted traffic on the Baltimore-Washington Expressway, the Capital Beltway, and a number of north-south streets in the District, including some that are already congested beyond their capacity.”

The South Leg could be placed in a 5,300-foot tunnel, “entirely out of sight” except for “unsightly ventilating towers above ground.” The editors preferred the option of two tunnels connected by a depressed expressway “provided the proposed landscaping is acceptable to the park people.”

Clearly the North Leg “needs further engineering study” of the K Street tunnel option. The Florida Avenue/U Street option “has been rejected out-of-hand by the city government [and] should not be revived.”

Congress, as usual, would have the last word, but the city council’s recommendations would receive a better hearing on Capitol Hill “if it manages to come up with a workable system for handling the freeway traffic” based on their merits, not “a repetition of the disorders that characterized the hearings last summer.” A repetition of those disorders “would play into the hands of those in congress who couldn’t care less what the council, or the community thinks.” [“The Council, the Congress and the Freeways,” *The Washington Post and Times Herald*, January 18, 1970]

### **Before the Hearings**

Although the city council’s public hearings on the freeways were expected to be a major activity, it was not the only problem area officials had to deal with.

In Montgomery County, officials were dealing with protests against the Northern Freeway, a proposed 4.9-mile freeway the Maryland State Roads Commission proposed to connect the Capital Beltway with the planned Outer Beltway. It also would link with the North-Central Freeway from the Capital Beltway and the District line.

Opposition centered on the fact that the six-lane Northern Freeway would slice through Sligo Creek Park and Wheaton Regional Park. Edward T. Borda, attorney for Citizens to Save Our Parks, referred reporters to Section 4(f) of the Department of Transportation Act of 1966, which generally prohibited the use of parkland for Federal-aid projects unless no feasible and prudent alternative was available. "It is most likely there are many feasible alternatives to this dismal proposal." The freeway, he said, would destroy Sligo Creek Park and damage the larger Wheaton Regional Park. ["Plan for Freeway in 2 Parks Draws Fire in Montgomery," *The Evening Star*, January 6, 1970]

When county officials met on January 7 with the Maryland State Roads Commission and the county's delegation to the Maryland General Assembly, over 200 people showed up to protest the Northern Freeway. The *Post* reported:

Last night's meeting . . . was intended to be a work session . . . . But several times during the session, opponents of the 4.9-mile Northern Freeway stood up to denounce the roads commission's plans. Leading the opposition was Sammie A. Abbott, who had been in the forefront of the movement to kill plans in the District for the North Central Freeway and also the Three Sisters Bridge.

He interrupted Chairman-Director David Fisher several times "and about five police officers were summoned to the building." About 2 hours into the meeting, Abbott rose to leave:

But before doing so, he gave a short statement denouncing the commission and the Montgomery delegation as "criminals and racists. He was ushered from the room by police officers but was not arrested. [Scharfenberg, Kirk, "225 Turn Out to Fight Montgomery Freeway," *The Washington Post and Times Herald*, January 8, 1970]

The *Post* reported that "county and state officials have been stunned in the past month by a mounting public outcry against a plan to use 90 acres of parks for the North Freeway, a six-lane speedway for trucks and commuters traveling into and out of Washington." The strong opposition included a few critics who "are calling into question the basic role of freeways and the automobile in urban transportation."

Carrying on the battle, about 1,500 protesters walked through a section of Sligo Creek Park "to protest the freeway and to view the parkland they say will be destroyed by it." Although the plan called for replacing the parkland, critics pointed out that little land would be available in the congested area of the county where the park was located. [Edwards, Paul G., "Outcry Brings Restudy," *The Washington Post and Times Herald*, January 19, 1970]

On January 19, Walter Bucher of the county commission told 500 opponents that the Maryland State Roads Commission had deferred planning for the Northern Freeway by a year. In addition,

when work resumed, the road would be a four-lane parkway for passenger cars only, not a six-lane freeway as presently planned. The deferral, as the *Star* noted, “means county officials will not be compelled to take action on the controversial project during the current election year.” [Lorman, Alvin, “Northern Parkway Deferred for Year,” *The Evening Star*, January 20, 1970]

On the eve of the public hearings, the District Corporation Council Duncan raised doubts about the city’s authority to use air rights over freeways for housing and other buildings. Duncan, on January 29, issued a formal opinion that Congress would have to grant approval before the District could proceed with its air rights plan, including construction of housing over the North-Central Freeway.

As noted earlier, the city had asked Congress to pass legislation addressing air rights. Congress had approved a bill covering District roads and streets (the District of Columbia Public Space Utilization Act, P.L. 90-598), but not the bill for freeways. The House District Committee informed the city that it already had the needed authorization under Federal-aid highway law. Duncan explained that Federal-aid law allowed States to use freeway air space under State or local laws. The District did not have a local law covering the use of air space over or under freeways.

Duncan’s ruling would not affect construction of a freeway under a Labor Department building at 2<sup>nd</sup> Street and Constitution Avenue, NW., or a major housing project planned over the Center Leg Freeway near H and 2<sup>nd</sup> Street, NW. Other agencies had granted easements for the air rights usage. Construction of a hotel over the 9<sup>th</sup> Street Expressway also would not be affected; Congress had authorized the project in 1961.

Duncan’s opinion was expected to provide another basis for citizen opposition to the freeways. [Flor, Lee, “Air Rights Opinion Puts Housing Plans in Doubt,” *The Evening Star*, January 29, 1970; Eisen, Jack, “Hill Must Approve Air Space Rights,” *The Washington Post and Times Herald*, January 29, 1970]

### **The City Council’s Public Hearings**

The city council’s transportation committee began public hearings in the council chamber at 7:30 p.m. As planned, WETA-TV broadcast the hearings. Fourteen policemen were on hand, ringing the chamber. Other policemen waited outside the chamber in case of need.

As it turned out the security precautions were not needed; the hearing was less fiery than expected. The audience of about 100 cheered loudly the nine speakers who opposed the freeways, but were orderly.

Airis, the first witness, discussed the department’s endorsement of routes for the South and East Legs of the Inner Loop Freeway and its plan for the North-Central Freeway. He explained the routing shift that would reduce the taking of homes and businesses in Brookland.

Regarding the North Leg of the Inner Loop Freeway, he said an additional 18 months would be needed. When Councilman Yeldell asked if Congress would be receptive, Airis replied that, “My informal advice is that an 18-month extension would be acceptable.” Councilwoman



Shackleton asked what a new study would show in view of the city's opposition to the Florida Avenue/U Street routing and the business community's opposition to the K Street tunnel. Airis replied, "Maybe we could hollow out a pair of streets up there," referring to a possible routing north of K Street.

He wanted legislation that would allow the department to use highway funds to build homes when housing was not available for people displaced by freeway construction. "I will hold firm to this: Homes will be available or there will be no work." In the case of the North-Central Freeway, he believed ample lots were available for replacement structures.

The evening included support for the freeways from G. Yates Cook of the Federal City Council and Daniel J. Hanson of the city's Traffic Board and an executive vice president of ARBA.

All the other witnesses opposed the freeways. "As usual," the *Star* reported, ECTC's Sammie A. Abbott and R. H. Booker led the freeway opposition. In the *Post*, Jack Eisen described Abbott's speech:

Abbott's desk-pounding, finger-pointing, 30-minute high-volume presentation was the highlight of the hearing. Airis was his chief target.

At the end of his testimony, Abbott read a letter from the West Montgomery Citizens Association, opposing construction of another beltway and bringing access roads into residential neighborhoods.

"And who is the vice chairman of this organization?" Abbott asked. "None other than Mrs. Thomas F. Airis, the wife of the same Mr. Airis who is desecrating the city of Washington and doesn't even live in this city," he answered himself.

The *Star* continued the narrative. "Even Airis and council members laughed but they quickly became solemn again as Abbott berated them for encouraging 'institutional racism' by retaining an all-white planning staff in the highway department."

Photographs accompanying the articles showed Airis grimly looking on during one of Abbott's finger-pointing moments as police officers lined the chamber wall.

(Airis, like many city officials, lived in the suburbs. His address was 10119 Gary Road in Potomac, Montgomery County, Maryland. Harold Aitken, his predecessor, had lived at 512 Horner Court in Fairfax, Virginia. These addresses were not secret; each annual edition of the *Congressional Directory* contained the addresses during the years they were in office.)

Channing E. Phillips of the Democratic National Committee, urged the city council to tell Congress that "no more freeways or bridges are warranted at this time." George W. Brady of the Federation of Citizens Associations recommended halting freeway construction until the subway system was completed. Henry Bain of the Washington Center for Metropolitan Studies warned that continued freeway construction would lead to the "Los Angeles-ization" of the District of Columbia.

Former Councilman Nevius said that as an attorney, he did not think that recommending an end to freeway construction would comply with Section 23 of the 1968 Act. However, he opposed further Interstate highways in the city, but could support a system of small parkways. [Eisen, Jack, "Roads Start to Wait for New Housing," *The Washington Post and Times Herald*, January 30, 1970; Green, Stephen, "9 of 12 Testifying at Hearing Strongly Oppose Freeways," *The Evening Star*, January 30, 1970]

On January 30, 12 speakers opposed the freeways, while 6 endorsed the District Highway Department's plan. Members of the city council expressed their own reservations, but feared the congressional reaction. The *Star* summarized their view:

Chairman Gilbert Hahn, Jr., Yeldell and other council members suggested that they would either like to seek more time for further study, or recommend no freeways are needed, or implement the thoroughfare plan passed by the council in 1968.

Councilman Yeldell put it this way, "I shudder at the thought of recommending additional study and then having the Public Works Committee urge Congress [to] approve the old routes."

Former Council Vice Chairman Fauntroy testified against construction. "We must state to Congress without fear what we believe. I haven't learned to move to a position of expediency when a question of conscience is involved."

Former Chairman Hechinger urged the city council to adopt the truncated plan approved under his leadership in 1968 without the North-Central Freeway. He was convinced that the 1968 plan met the congressional mandate to build the new roads. Hahn told him, "I may, indeed, in the end follow your advice."

Jerry White, testifying for the Maryland State Roads Commission, supported the North-Central Freeway, but acknowledged that the route still had legal hurdles to clear in Montgomery County.

Witnesses from Montgomery County opposed extension of the North-Central Freeway into the county. Irving Woloch of the Montgomery County Civic Federation said, "Thus, if you should regrettably decide to go ahead with the North Central Freeway, you may well find that the freeway will terminate at a dead end in Montgomery County and we intend to continue to exert every effort to keep that end dead." Montgomery County Councilwoman Idamae Garrott said that during a meeting in Rockville on January 31, she would vote to remove the North-Central Freeway from the county's highway program.

Eisen summarized the day's hearings:

From the line of Council questions, it was clear that members were searching for a way out of voting for the road without angering Congress. [Eisen, Jack, "D.C. Freeway Foes Get Backing in Montgomery," *The Washington Post and Time Herald*, January 31, 1970; Green, Stephen, "Council Members Cool To More City Freeways," *The Evening Star*, January 31, 1970]

Councilwoman Garrett's proposal to remove the North-Central Freeway extension from the county's plan was put to a vote when the Montgomery County Council met on January 31. She said, "It's going to result in depression of our property values, in air pollution, in diminution of transit ridership." Her motion failed to secure a majority vote; the council voted 2 to 2, with Gleason abstaining.

She also opposed the Northern Parkway, which would run parallel to Georgia Avenue, described in the *Post* as "the county's most overburdened artery, now traveled by 60,000 cars daily." The council members made their concerns about the parkway clear. The council voted to remove the parkway from the county's 5-year program, apparently because they learned that if they deleted the parkway entirely, funds would not be available for studying alternatives.

The council also approved an amendment stipulating that "Sligo Creek Park not be one of the routes to be considered." They also voted against having the Maryland State Roads Commission to propose the route to the council within 5 years. The council indicated that the State should hold off until Metro was opened in the parallel Georgia Avenue corridor; Metro might lessen the need for the parkway.

Councilman Feeney summarized the action:

The Council has taken the position that, if it had the authority, it would prohibit the parkway through Sligo Creek Park. And in the absence of this we are strongly hinting to the State Roads Commission that they follow our advice. [Lorman, Alvin J., "Montgomery Refuses Use of Park for Road," *The Sunday Star*, February 1, 1970; Cohen, Richard M., "Don't Build Sligo Route, Council Says," *The Washington Post and Times Herald*, February 1, 1970]

The city council's public hearings resumed on February 3, with all but one of the 16 witnesses opposing the freeways.

Witnesses from two business groups in the vicinity of Connecticut Avenue and K Street testified in opposition to the crosstown North Leg of the Inner Loop Freeway. Stanley O. Sher, an attorney for the Connecticut Avenue Association and the recently formed Committee Concerned for K Street, said the proposed K Street tunnel, would be a "disruptive white elephant." In an area already slated for disruption from Metro subway construction, the North Leg tunnel would not "revitalize, feed, or even serve downtown." The businesses also opposed the Florida Avenue/U Street alignment. Sher suggested that the city council could satisfy the congressional mandate by advising against building the North Leg instead of suggesting an alternative route.

Former NCPC Chairman Rowe said the network threatened "the character and livability of the city." She did, however, support the 24-mile system that NCPC and the city council had endorsed in December 1968. The pattern for that plan, she said, had been set by the roads already built.

Dr. Daniel B. Fisher, whose degree was in cancer research, pointed out that automobile pollution threatened the health as well as the safety of the community. He added that the South Leg of the

Inner Loop Freeway could destroy the famous cherry trees around the Tidal Basin. “We must attack the cause, the overuse of the automobile, for access into the city.”

ECTC’s Charles Cassell, who had just won election to the board of education, addressed the city council on behalf of the Capital East Citizens Organization. He called for “not another inch” of freeways. He said the only people who supported the freeways were business groups and Members of Congress. The *Star* reported that he “thundered” as he said, “How much more technical information must we give you to impress upon you that your major responsibility is to us and not to the Congress of the United States.”

Eisen described a confrontation between Cassell and Councilman Moore:

The appearance of the militant Cassell led to a verbal clash in contrast to the generally calm tenor of the session.

After displaying an enlarged photograph of a freeway, Cassell refused the request of Councilman Jerry A. Moore Jr. that he sit down to continue testimony. Moore presided as chairman of the Council’s Transportation Committee.

For 10 minutes, as tension mounted, sharp words were exchanged, with Cassell insisting that he be permitted to stand and demanding that six armed special guards leave the room.

“Listen to me,” Moore said. “There are just certain things that are courteous.” In the end Moore relented and Cassell remained standing to finish his testimony.

Dr. Yale Rabin, a consultant to the NAACP and the National Coalition on the Transportation Crisis, warned the city council that if the full freeway network were built, the city would be following a proven path of self-destruction. Studies of urban roadbuilding “show a consistent pattern of flagrant disregard for inner city minority groups and for the urban environment.” Displacing approximately 20,000 people was reason enough to halt freeway construction. The *Star* summarized Dr. Rabin’s testimony:

Rabin labeled as “myths” the ideas that new roads provide additional jobs for low income groups and revitalize the downtown area. On the contrary, he said, easier access to the suburbs causes both people and industry to move out of the city, leaving it to those who had neither the skills nor the money for mobility.

Further, citing experience in other cities, he said no city in the country with freeways emptying into the downtown area has found the arrangement capable of producing anything but congestion.

He endorsed the expanded rapid transit system as the only solution to the city’s transportation problems:

The “balanced” transportation system – coordination of highways and subways – envisioned by proponents of the freeways was a “deception,” he said, adding that if road

and Metro lines run along the same right-of-way the roads would seriously undermine Metro patronage, particularly if they are built first.

A spokesman for the Yellow Cab Company was the lone witness in support of the freeway system. [Eisen, Jack, "2 Business Groups Hit Freeway," *The Washington Post and Times Herald*, February 4, 1970; Holden, Constance, "Planner Warns D.C. Council Of Dangers in New Freeways," *The Evening Star*, February 4, 1970]

The hearing the evening of February 4 was similar to previous hearings where critics far outnumbered the lone supporter. The *Star* reported that most of the speakers "seemed impatient with the council for not flatly turning down the Highway Department's plan for an Inner Loop." The members of the city council should not fear congressional reprisal. "Let the blood be on their hands," several witnesses said, referring to Congress.

Several witnesses criticized Section 23 of the 1968 Act. Donald R. Allen of northwest pointed out that the plan required by Section 23 was based on 11-year old statistics and had never been subjected to cost-benefit analysis.

Merle Van Horne, representing Americans for Democratic Action, said, "It would be hard to find a modern urban environmental planner who could say a kind word for freeways in the core city today." The Section 23 plan ignored the idea of people-oriented cities geared to pedestrians, with the automobile existing only by sufferance.

Leslie Logan of Preservation of the Potomac Palisades ridiculed the concept of balanced transportation. No such balance could be achieved if the Federal Government would not subsidize the losses on subway operations. He denied that the two systems had been coordinated, as reflected in the absence of fringe parking that would encourage commuters to use public transportation for trips into the city.

William B. Middleton predicted that freeways into the city would "be obsolete in a few years with expansion to outlying areas." While Metro was under construction, he suggested the use of express buses and commuter trains on existing rail lines.

The *Post* summarized the hearing:

Last night, speakers opposing further freeway construction here attacked freeways for disrupting and isolating neighborhoods, polluting the air, displacing residents from their homes, spawning more traffic problems and creating even more reliance on the use of automobiles for private transportation.

When a pro-highway witness, Washington attorney Harry Wender, pointed out that the city's 10 miles of freeways were already proving to be safer than its 1,070 miles of surface streets, members of the audience heckled him. ["Foes Heckle Advocate of Freeway," *The Washington Post and Times Herald*, February 5, 1970; "Freeway Proposals Draw More Public Criticism," *The Evening Star*, February 5, 1970]

Newspaper coverage of the hearings was shrinking as the next-to-last hearing took place on February 5. In a four-paragraph summary, the *Star* reported that “some speakers began to show impatience with the procedures used by the council.” Councilman Moore argued with Wendell A. Daniel of the Plymouth Congregational Church when he complained that only two members of the city council were in attendance. (Chairman Hahn was present along with Moore.) Another witness, Johnnie D. Wilson, criticized the city council for favoring the rich over the poor. “I think this [hearing] is an exercise you’re going through that doesn’t mean a thing. Chances are you’ve already made up your minds.” [“Freeways Opponent Criticizes Hearing,” *The Metro Scene, The Evening Star*, February 6, 1970]

On the final day of hearings, February 6, Montgomery County Councilman Kenney said the county supported completion of the North-Central Freeway from the District line to the Capital Beltway. It was “absolutely vital,” no matter what opponents said. He had “no doubt” that the county was “fully prepared to support” the freeway. He did not endorse a specific route. He recognized that any freeway route would be controversial, but he was certain the North-Central Freeway would “be of significant economic and social value to the residents of both our areas.”

His views were contradicted by recent actions by other county officials. On February 2, Montgomery County’s delegation to the House of Delegates voted 13 to 3 to strike the Northern Freeway from the State’s highway plans. They favored “immediate study” of transportation needs in the Georgia Avenue corridor. The vote was binding on the Maryland State Roads Commission.

In addition, the Montgomery County Council had voted to delay further right-of-way acquisition in the Northern Freeway corridor to allow study of alternatives. Chairman-Director Fisher agreed to participate in the study of alternative routes for the freeway and ways to alleviate congestion along Georgia Avenue. [“Northern Freeway Postponed,” *The Washington Post and Times Herald*, February 3, 1970]

None of the final day’s witnesses supported the freeway system. Witnesses opposed the North-Central Freeway, the route of the South Leg of the Inner Loop Freeway, and called for a moratorium on all new freeways pending further study.

ECTC’s Sammie Abbott attended the hearing. Despite being warned that he would be thrown out if he said anything, he spoke up when someone else had the floor. The *Star* reported:

Sammie A. Abbott . . . was lifted out of his chair by two policemen and removed from the room . . . . Until he was allowed to return several minutes later, Abbott’s supporters shouted at the councilmen and the police.

Abbott . . . said later that he had been warned . . . [but] “sometimes I find it necessary to comment,” he said.

It was “the first time [the council] had to call upon security forces that have been on hand at all nine sessions.” [“Central Freeway Called Vital,” *The Washington Post and Times Herald*,

February 7, 1970; Robinson, Alma, "Freeway Foe Ejected From Council Hearing," *The Evening Star*, February 7, 1970]

Summing up the hearings, the *Post's* Wolf Von Eckardt noted, "Freeway proponents have lately become as scarce as hawks." City council staff had invited freeway advocates such as AAA and the Rubber and Tire Manufacturers to testify, but they did not appear:

Only the Bethesda Chamber of Commerce, the truckers and spokesmen for several downtown business organizations, notably Yates Cook of the Federal City Council, still favor the freeway "system" this city officially rejected over a year ago.

The community did not want the freeway system that Chairman Natcher was insisting be built, "as some 200 citizens, representing all kinds of persuasions and organizations, patiently told the City Council once more last week in the course of nine sessions of public hearings":

They were not just the urban proletariat, supported by a few intellectual snobs who hate automobiles. The freeway opponents included city planning experts and environmental scientists, and some of them were even more respectable than that. They were suburban commuters.

He cited the opposition to the Northern Freeway in Montgomery County as evidence that suburbanites, too, were "becoming disenchanted with the notion that the way to remedy a mistake is to escalate it."

The opposition also reflected the fact that we "now all know much more about what is happening to our environment than we did when this freeway system was conceived back in 1956." Combine this knowledge with the "almost unanimous opposition" to the District's system, and "it now seems politically as unthinkable for the City Council to consent to completing this system as it would be for President Nixon to re-escalate the war."

Inevitably, the city was "in for a period of difficult negotiations" over a "balanced transportation system," which Von Eckardt said was "about as vague a term as they come."

Recalling that on "one hot August Saturday morning" in 1969, the city council was "forced to surrender," but he argued that "this time the city seems in a much stronger position." He dismissed Director Airis's restudy of the network in support of the freeways, including the North-Central Freeway, as "arrogant intransigence" that would not do the highway cause much good on Capitol Hill and in the Department of Transportation." Von Eckardt did not believe area Members of Congress would "condone blackmail again to protect suburban commuters, because suburban commuters, too, are turning against freeways":

It therefore seems time for this city to call the bluff about "balanced transportation." We have paid our ransom with the Three Sisters Bridge. Now the city must speed subway construction, and press for better bus service, more parking, and the long overdue improvement of the existing street system with grande [sic] separations, synchronized traffic lights and more enlightened traffic engineering.

We are a big city now and need no longer be pushed around by unenlightened self-interests. [Von Eckardt, Wolf, "Tracing the Changing Mood of Freeway System Victims," *The Washington Post and Times Herald*, February 8, 1970]

City Councilman Yeldell agreed. Speaking to the local chapter of the American Society of Civil Engineers, he said that freeway advocates had not made a convincing case that the city needed the full 29-mile Interstate System planned for it. Some more freeways might be needed, but that need would be reduced by the full Metro system. "At that time we would want to discourage the commuter from using the roads." ["Freeway Issue Seen Still Open," City Life, *The Washington Post and Times Herald*, February 11, 1970]

On February 16, the TPB of COG recommended the city support the freeway system, including the North-Central Freeway and I-95/Northeast Freeway. The vote was by voice, but no opposition was expressed. The city councilmen who serve on the board were absent. [Eisen, Jack, "D.C. Freeway Plan Backed by Board," *The Washington Post and Times Herald*, February 17, 1970]

The same day, Secretary Volpe announced during a press conference that "projects of the Department of Transportation will not be approved if they involve the dislocation of people, black or white, unless and until adequate replacement housing has already been built or provided for." He added, "All replacement housing must be fair housing – open to all persons regardless of race, color, religion, sex or national origin." The term "adequate" housing meant "decent, safe, and sanitary." The new policy applied to all projects, including highways, subways, airports, railroads, and Coast Guard activities. (The United States Coast Guard, in those days, was in the Department of Transportation during peacetime; it would join the Department of Defense during war.)

Secretary Volpe said the policy clarified compliance with the provision in the 1968 Act requiring the government to provide housing for displaces "to the extent that can reasonably be required." Now, if adequate replacement housing did not exist, the sponsoring agency would have to build it. "In every case where a family desires housing, they are now absolutely assured of it."

Highway officials in Maryland and Virginia endorsed the policy, but Secretary Volpe could not predict how it would affect specific projects. He said he had met with Mayor Washington and Chairman Hahn to discuss the potential impact on District freeways. However, he emphasized that he intended the policy to be taken literally:

We are determined that the great demand for transportation construction capacity that faces this nation will be met, but that it will be met with full consideration given to the extremely important factors of environment and housing. [Hebald, Anne, "Volpe Ties Road Plans To Housing," *The Washington Post and Times Herald*, February 17, 1970; Green, Stephen, "Volpe Links Road Funds to Housing," *The Evening Star*, February 6, 1970]

The following day, the city council voted 9 to 0 to omit the North-Central Freeway, and the Northeast Freeway branch into Maryland from its recommendations to Congress in response to



Section 23 of the 1968 Act. Traffic on I-95 would travel east on the Capital Beltway 4 miles to the Baltimore-Washington Parkway and enter the city on New York Avenue, NE., until the parallel Industrial Freeway could be constructed.

The Industrial Freeway would take up to 137 houses, depending on routing. The *Post* reported that, “The council suggested that the Industrial Freeway be designed in conjunction with a ‘major industrial park, including a center for truck operation, capable of creating new employment and a tax base for the District.’”

The city council accepted construction of the Three Sisters Bridge and its approaches, but other elements of the plan included:

East Leg of the Inner Loop – The highway department had proposed routing the East Leg from the Robert F. Kennedy Stadium area to the south end of the North-Central Freeway near the Ivy City railroad yard. The city council rejected the freeway plan, favoring construction of the Anacostia Parkway from terminus of the Southeast Freeway at Barney Circle, through the National Arboretum, and connecting with the Industrial Freeway in an interchange at South Dakota Avenue.

North Leg of the Inner Loop – The plan called for tunneling the route across downtown Washington under E Street, NW., or beneath K, L, or M Streets, NW. Councilman Moore said that the 18-month study period that Airis had requested “does not comply with . . . the letter or the spirit” of the 1968 Act.

South Leg of the Inner Loop – The city council rejected both plans for the South Leg, including a tunnel all the way from the Lincoln Memorial to the Tidal Basin or two shorter tunnels connected by a depressed section. The approved plan called for a short tunnel beneath Lincoln Memorial Circle linking Independence Avenue with the stub end of the existing freeway to the north.

Overall, the plan was closer to the plan approved in December 1968 than the plan approved in August 1969.

The *Post* pointed out that the meeting was “marked by a bomb scare attributed to a crank and by unaccustomed bursts of applause from the audience.” The longest ovation from the crowd of about 200 came when the newly appointed Councilman, Dr. Henry S. Robinson, Jr., said that 69 homes in Brookland that had been acquired for the North-Central Freeway should be restored.

(On September 23, 1969, President Nixon had nominated Dr. Robinson to serve the remainder of former Councilman Thompson’s term after he was appointed an Associate Judge. Robinson, 64, was a District native, an orthopedic surgeon, a Republican, and an African-American. He and his wife lived at 1800 Randolph Street, NE. [Griffiths, Harriet, “Nixon Picks Robinson for D.C. City Council,” *The Evening Star*, September 23, 1969]

(Thompson’s term was to expire February 7, 1970, but on March 10, 1970, President Nixon nominated Dr. Robinson to a full term. At the same time, he nominated Councilman Anderson for a second term and the Reverend Carlton W. Veazey, pastor of the Zion Baptist Church, to

succeed Councilwoman Shackleton. Veazey, an African-American and a Republican who worked as a supervisor at the Opportunity Industrialization Center in Cardozo, lived at 230 M Street, SW. On April 10, 1970, General Sessions Court Judge Thompson, the former councilman, administered the oaths of office for Councilmen Anderson, Robinson, and Veazey. On April 23, Mayor Washington appointed former Councilwoman Shackleton to the at-large seat on the District of Columbia Model Cities Commission.)

Although Section 23 appeared to make construction of the North-Central Freeway mandatory, Chairman Hahn and Councilman Moore insisted that the decision complied with the law since the report contained the city's recommendation.

The city council was to forward the plan to Mayor Washington, who could accept it or dissent from it. If he accepted, it would become the city's official plan. The *Star* explained that if he rejected the plan "he will either have to negotiate a new recommendation with the council or produce his own to submit to Congress along with that of the council." Secretary Volpe had said he would make his recommendations after seeing the city's plan.

Eisen reported:

The Council's position is almost certain to arouse substantial criticism, at the very least, from profreeway members of the House Public Roads Subcommittee which originated the 1968 law.

But it is not clear what the freeway advocates can do. They do not have the same handle on the issue that existed last summer when a principal overseer of the city budget, Rep. William H. Natcher (D-Ky.) threatened to withhold money for the Metro subway system if the road system and notably the Three Sisters Bridge across the Potomac, was not built.

ECTC's Booker was less enthusiastic than others in the crowd. He saw the city council's action as a result of ECTC's "unceasing struggle." Sammie Abbott, who had slipped on ice the day before, could not attend. [Eisen, Jack, and Prince, Richard E., "North Central Road Barred by Council," *The Washington Post and Times Herald*, February 18, 1970; Green, Stephen, "Freeway Veto Faces Threat By Natcher," *The Evening Star*, February 18, 1970]

Mayor Washington, Deputy Mayor Watt, Chairman Hahn, and Director Airis were among the top city aides who met with Secretary Volpe, Federal Highway Administrator Turner, and other officials for an hour and a half on February 18 about the District's plan. The goal was to brief the Federal officials on the city council's action, but Hahn acknowledged afterwards that the meeting was inconclusive.

Mayor Washington, who met privately with Secretary Volpe for 10 minutes, told reporters he had not yet read the city council's plan. "It would be impossible for me to give an opinion until I read the documents." Turner also said he had not had a chance to review the city's plans. He said, "We've obviously got a lot of homework to do" in view of the statutory deadline imposed

by Section 23 of the 1968 Act (technically February 23, but since that date was the George Washington Federal holiday, the deadline had become February 24).

Secretary Volpe told reporters that he had not taken a position on the city's plan, but said he would give great weight to FHWA's views. Department sources told reporters that FHWA was almost certain to recommend construction of the North-Central Freeway and the East Leg Freeway north of Bladensburg Road. Although Secretary Volpe said the White House had not pressured him on the issue, he added that the Nixon Administration's recent emphasis on environmental problems would "play a big role in the location of any highway" in the plan.

He had received reaction from Capitol Hill. "Yes, I had a call this afternoon from the Capitol," he told reporters. He refused to disclose the source, but the Congressman was reportedly unhappy with the city council's action. Chairman Natcher, as usual, declined to comment on the city council's decision, but congressional sources told reporters that he will again threaten to withhold District matching funds for Metro if the city repudiates each requirement of Section 23 of the 1968 Act.

The sources also cited the city council's decision to support the Anacostia Parkway, between Barney Circle and the Industrial Freeway, instead of the East Leg of the Inner Loop Freeway, as called for in the 1968 Act. Barney Circle, which is south of Bladensburg Road, was outside the bounds established by the 1968 Act.

(President Nixon had signed the landmark National Environmental Policy Act of 1969 on January 1, 1970, creating new environmental requirements that as of February 1970, were not completely clear to highway officials. A month earlier, the Environmental Protection Agency (EPA) began operations. For more information, see "Addressing the Quiet Crisis: Origins of the National Environmental Policy Act of 1969" on the Highway History Web site.)

Officials of the Maryland State Roads Commission, meeting in Baltimore, expressed their disappointment with the city's actions, particularly the decision to drop the North-Central Freeway. The State planned to open the eight-lane I-95 freeway linking the Baltimore Beltway and the Capital Beltway in 1971. Maryland, the District, and FHWA had agreed on the Y-shaped I-70S/I-95 link, with I-95 carried from the Inner Loop Freeway on the North-Central Freeway before branching off near Gallatin Street, NE., to continue on the Northeast Freeway to connect with I-95 at the Capital Beltway.

Walter Bucher, Montgomery County's representative on the commission, said the city council's plan would create "a hell of a mess" based on simple arithmetic. Traffic would leave I-95's eight lanes to merge onto the Capital Beltway's overcrowded six lanes, travel south onto the four-lane Baltimore-Washington Parkway, before reaching New York Avenue, a non-access controlled facility. Moreover, he said the parkway pavement, without reconstruction, could not absorb the increased traffic even if the NPS continued to prohibit trucks on the facility. [Eisen, Jack, "City Aides, Volpe Meet on Roads," *The Washington Post and Times Herald*, February 19, 1970; Green, Stephen, "Volpe, Mayor Meet On Freeway Issue," *The Evening Star*, February 19, 1970; Eisen, Jack, "I-95 Creates New Planning Crisis," *The Washington Post and Times Herald*, February 22, 1970]

Congressional concerns became clearer on February 20 when Chairman Kluczynski told Eisen that the city would be “in trouble” if its recommendations omitted the North-Central Freeway. The council, he said, would be defying the provisions of the 1968 Act. He added that Chairman Natcher was “upset” by the council’s action. Chairman Natcher did not comment on the situation, but a congressional source recalled the chairman’s November 24 comment that, “The Highway Act of 1968 must be complied with and as long as the freeway system proposed in this act continues under way we will, at the proper time, appropriate funds for continuing construction of this rail rapid transit system.” He added that “both systems must continue under way . . . .” [Eisen, Jack, “Hill Opposition Expected on Freeway Plans,” *The Washington Post and Times Herald*, February 21, 1970]

On February 21, Mayor Washington informed Congress that he supported the city council’s abbreviated highway plan, including the recommendation to remove the North-Central Freeway from the Interstate System. He had given “full and careful consideration” to the council’s recommendations before drawing his own conclusions. He had considered citizen opposition to the freeway, as well as “environmental, socio-economic and housing considerations,” in deciding to endorse the Industrial Freeway alternative parallel to New York Avenue. It would be, he said, “attended with less disruption to the community.”

By then, the city council had amended its recommendations to clarify that the East Leg would be built near Bladensburg Road and that the Anacostia Parkway would run north in a tunnel from there. [“Congress Is Told Mayor Supports Freeway Deletion,” *The Evening Star*, February 21, 1970; Green, Stephen, “Mayor to Support Council On Opposition to Freeway,” *The Evening Star*, February 20, 1970; Moore, Irna, “Mayor Backs Council Plan On Freeways,” *The Washington Post and Times Herald*, February 22, 1970]

The *Post*’s editorial board was not impressed by the city council’s approved plan:

The most that can be said for the city council’s report on the Washington freeway program is that it probably complies technically with the requirement of the Highway Act of 1968 that some such report be made. Beyond that, the alternatives approved by the council are essentially the same ones which the council put forward at the end of 1968 – and which failed then to resolve the controversy over the freeways.

The council’s decision on the North-Central Freeway was particularly troubling. The Department of Highways and Traffic’s original plan “remains the most logical place to put the road since it would go in a transportation corridor already occupied by the railroad and about to be occupied by the subway system.” The alternative routing in the New York Avenue corridor was “really no alternative at all since it will not serve the same part of the city.” The council had also failed “to assess the impact of the proposed New York Avenue routing on the Maryland interstate system, particularly the Beltway.” The best option at this point was to request an urban design study “to permit a team of architects, engineers, urban planners and environmentalists to assess the implications of this route” in cooperation with Maryland and Metro officials. [“The Freeway Debate,” *The Washington Post and Times Herald*, February 24, 1970]

## Secretary Volpe's Decision

The *Post* reported that the Assistant Secretary for Urban Systems and the Environment, former Seattle Mayor James D. Braman, had told the Secretary that the city council's plans for an abridged freeway network were a better fit with the Nixon Administration's environmental goals than the plans proposed by the District Department of Highways and Traffic. Braman said the Department's concerns focused on the South Leg Freeway because of fears about pollution, destruction of trees and parkland, and its appearance in a park-like area.

As for other segments, Braman said, "We were concerned with disturbances to neighborhoods," but thought the city council's plan was a "reasonable response" to the demands of Section 23 of the 1968 Act.

Chairman Fallon disagreed. He said the city council's plan was "nowhere close to the action that Congress took in 1968." He added, "Certainly, they're flouting the will of Congress." He expected Congress to place more confidence in Secretary Volpe's plan than in the city council's proposals. [Prince, Richard E., "Volpe Sets District's Roads Plan," *The Washington Post and Times Herald*, February 24, 1970]

On February 22, Secretary Volpe sent his recommendations to Congress in accordance with Section 23 of the 1968 Act. His letter to Speaker of the House McCormack and President of the Senate Agnew expressed general support of the city council's decisions:

In my opinion, the recommendations of the Government of the District of Columbia reflect a determined effort to comply with the requirements of the Congress as well as to remain sensitive to the expressed concerns of the citizen groups of the District of Columbia. It is necessary to remember in this connection that the time available for preparation of studies and for Government action was considerably reduced by the practical necessity last year to resolve the controversy concerning the relationship of rapid transit and highways in a balanced transportation program for the metropolitan area. Yet the completed freeway network reflected in the District Government's recommendations includes in mileage over 73 percent of the network set forth in the 1968 Cost Estimate. With the New York Avenue addition proposed by the District Government, the total mileage would be 87 percent of the mileage in the 1968 Cost Estimate.

His focus was on the three freeway projects that Section 23 of the 1968 Act had designated for further study, not immediate construction: the South Leg, North Leg, and North-Central Freeways.

He commented on each pending freeway. For the South Leg Freeway, he favored the city council's proposal known as Plan C, as recommended by FHWA, to build a tunnel about 1,400 feet long beneath the Lincoln Memorial grounds returning to the surface on Independence Avenue about 1,000 feet beyond the south tunnel portal. He recommended one change in the city's plan. The vertical clearance in the tunnel section could be reduced to 12½ feet, instead of 14½ feet, "since commercial traffic will not be permitted on this route." That reduced height

would “accommodate all foreseeable emergency needs and other routings are available for the movement of military vehicles requiring larger clearances.”

The tunnel, with a capacity of 60,000 vehicles a day, would reduce impacts on the landscape, avoid the Tidal Basin area, and cost about \$22.5 million, much lower than the cost of alternatives calling for a tunnel under the Tidal Basin. “This plan will do the least damage to the esthetics and monumental character of this area and permit its easy accessibility to visitors and city dwellers alike.”

Secretary Volpe agreed with the city council that the North Leg Freeway required additional study that would take about 18 months. He advised that the study should not be restricted to the alternatives the city had specified (“4-lane tunnel along K Street, 2-lane tunnels along L and M Streets or some combination of these, or as an alternative, a tunnel connecting the E Street Expressway to ‘Downtown’”):

There is a strong possibility that the “E” Street line extension, across the area in the rear of the White House and extending beyond Pennsylvania Avenue, perhaps ultimately to the Center Leg Freeway, can be accomplished. This will be the “release” from the pressure for a traffic service line along “K” Street – and certainly would give relief to the present problem of “just too many cars and too much confusion in [the] area between the White House and the Washington Monument.”

Secretary Volpe hoped that outreach to HUD and others would help solve the relocation problems while the 18-month study was underway. He recommended that “there be prepared within 18 months, in cooperation with the District Government, a final action plan on this segment of the Interstate System in the District.” The key was that the study must not be limited to the city’s proposed alternatives.

He did not adopt the city’s proposal to remove the North-Central Freeway from the city’s Interstate System. “In my opinion, any judgment requiring or precluding this segment is premature.” This section of the city was one of the most heavily traveled, and traffic was bound to increase. The city’s Industrial Freeway alternative in the New York Avenue corridor was not an actual alternative:

The New York Avenue freeway proposed by the District Government as a substitute is not in fact an alternative; it is primarily an east-west corridor and offers little relief to north-south traffic. Nor can possible improvements in managing traffic arterials as suggested by the District Government meet but a part of the problem.

The concept of the North-Central Freeway was to combine northwest, central, and northeast corridors into one central route. As such, it would require “an exceedingly high capacity, 4-2-4 lane freeway with reversible express center lanes”:

The wide swathe needed for such a cross-section with extreme traffic concentrations in the vicinity of the Capitol dictated an arbitrary cutback to a 4-4 lane proposal.

This cutback was “generally recognized as inadequate for future needs,” but two considerations made it acceptable:

First, another outlet to the northwest will eventually be supplied upon completion of the George Washington Memorial Parkway on the District side of the Potomac River from the Three Sisters Bridge to the Beltway, Interstate 495. Although commuter travel over parkways is generally undesirable, it would seem the river valley is too important a resource to be devoted solely to “pleasure” driving.

Second, an outlet to the northeast is possible in two ways. The proposed New York Avenue Freeway via the Kenilworth Interchange and northward on the Baltimore-Washington Parkway to the Beltway may be built. The northeast branch from the North Central corridor to meet Maryland’s Interstate 95 at the Beltway would provide similar service.

Housing had always been a factor in discussing the North-Central Freeway. Ongoing work with HUD might establish new methods of helping relocates. “One possibility is a new goal to provide replacement housing while reconstructing the 1968 riot-damaged areas.”

Cost-per-mile was another consideration. “Coupled with incompletely satisfied capacity needs, the price tag is inordinately high”:

Undoubtedly the Baltimore and Ohio Railroad’s presence adds considerably to the costs. The five underpasses are intrinsically expensive because of the angle of crossing and the need to maintain railroad operations by detour tracks and supports. The proximity of the railroad itself and the future rapid transit lines add to the costs by requiring additional retaining walls and other appurtenances.

Because the railroad had an alternate connection into Washington via Laurel, Maryland, some consideration had been given to acquiring the railroad right-of-way in the North-Central corridor:

Removal of the operating rail line would allow joint development of the transportation corridor by the highway departments in conjunction with the Washington Metropolitan Area Transit Authority.

In addition to making joint development easier to coordinate, acquisition of the railroad right-of-way would accelerate construction plans, improve highway alignment and geometrics, eliminate the need for expensive retaining walls, narrow the highway right-of-way to reduce the number of displacements, decrease tunnel costs and construction time, and perhaps allow for extending I-70S along the existing railroad corridor north to an interchange with the Capital Beltway in the vicinity of Gaithersburg.

Professional staff in the Department of Transportation believed that the Baltimore and Ohio Railroad corridor offered “the most practical and feasible alignment for freeway development in the North-Central area with the least disruption to the community.”

Much additional study and planning for the North-Central Freeway were needed:

- A concerted effort was needed to obtain community involvement and “meaningful citizen participation.”
- Highway planning should be more closely coordinated with comprehensive land use and environmental planning for the community.
- Continuing discussions with HUD were needed “to establish in advance attractive replacement housing alternatives for persons potentially subject to relocation,” consistent with his recently stated policy.
- The study also should consider the option of removing the rail line from the corridor “so that the most advantageous program for joint development of the corridor with the Washington Metropolitan Area Transit Authority can be developed in order to save construction money and time, improve design features, and enhance appearance and utility.”
- The additional time and study would permit officials to clarify “the uncertainty which appears to have developed in Maryland regarding the Maryland connecting links.”

Final judgment should be deferred until these issues could be resolved. He thought the work could be completed in about 16 months.

Although the proposed Industrial Freeway would not serve the North-Central traffic, Secretary Volpe thought it had merit “as an addition or alternate routing for that portion of I-95, which is to be carried jointly with I-70S south of Gallatin Street”:

This section is very heavily loaded because the design was administratively restricted to eight lanes despite the larger traffic load demand. It is further complicated by undesirable weaving movements at and between the inter-changes [sic].

He would be willing to consider adjusting the system to reroute I-95 if other adjustments are consistent with this option.

Secretary Volpe also discussed the status of routes that were underway. He recounted the progress on the Center Leg of the Inner Loop Freeway:

Preliminary design is underway for joint development housing and freeway facilities on a 5-acre site between H and K Street, N.W., on the Center Leg, I-95. The segment of the route between the Southwest Freeway and H Street is under construction and is well along. The mall tunnel is about 50 percent complete. Grading walls and structure for the depressed section between D Street and H Street, N.W., are complete. Paving and stone facing operations are awaiting improved weather conditions.

As for the East Leg Freeway, he explained that the 1968 ICE called for it to extend from I-695 on the District side of the 11<sup>th</sup> Street Bridge across the Anacostia River, along the river to Barney Circle at Pennsylvania Avenue, north past the East Capitol Street Bridge, to the south edge of the National Arboretum, before terminating at Bladensburg Road. As this routing was set in the 1968 ICE, the city is “preparing for construction contract work on the south end of the line described.” He added that the entire segment had received clearance under Section 4(f):



The first section from 11<sup>th</sup> Street to Barney Circle (Pennsylvania Avenue) is partly under construction. Detailed design work is underway for ½ mile east of Barney Circle. Bids were opened January 15, 1970, for a short grading project in this area.

Along the Anacostia River in the vicinity of D.C. Stadium, the alignment was going to be adjusted because of NPS plans for recreational development along the river.

Progress, Secretary noted in one of the shortest sections of his letter, also had been made on the Three Sisters Bridge. “The Fine Arts Commission approved a single span structure design in September 1967.” The 1968 Act had lifted the February 1968 injunction imposed by the U.S. Court of Appeals. Construction of two river piers was underway. The U.S. District Court had rejected recent efforts to enjoin further action, with an appeal pending.

The city had contracted for design of the Potomac River Freeway, but Secretary Volpe reported that FHWA thought “further consideration should be given to the design along the Georgetown Waterfront, particularly the area downstream from Key Bridge.” The 1968 Act had envisioned a tunnel for the eastbound lanes between the Three Sisters Bridge and Wisconsin Avenue, with the Whitehurst Freeway carrying westbound traffic at present. “It is felt that further consideration should be given to an earlier design concept which provided two elevated structures and reserved the area beneath and riverward for park and recreation purposes.” He cited the advantages:

Full development of the Georgetown Waterfront requires the removal of all commercial and industrial activities between the Potomac River and the C&O Canal and the Whitehurst Freeway. Under existing concepts for highway development, the entire cost of acquisition for this land can be financed from the Federal-aid highway fund. The National Park Service would be the logical agency for developing the park and recreational use.

The proposal [as] described permits full and unrestricted access from the entire Georgetown area to all of the Potomac River bank. The tunnel east of Key Bridge creates a severe barrier to access because of the approach grades towards the completed structure at 31<sup>st</sup> Street. The elevated facilities would obviate the necessity for the elaborate construction techniques, ventilation equipment and constricted operations that are the earmark of all highway tunnels.

With additional study needed, the connection between the Three Sisters Bridge and the George Washington Memorial Parkway would have to await final decisions regarding the Georgetown waterfront.

The Department of Transportation issued a news release that was embargoed until noon on February 24 regarding Secretary Volpe’s letter to Congress, making it public. Newspapers reported on Secretary Volpe’s letter on February 25.

Reaction to it was slow in coming, as officials needed time to review it. However, Chairman Fallon made his displeasure clear in a letter to President Nixon on February 27. The study undertaken by the city in late 1969 “went far afield of the Federal Aid Highway Act of 1968”:

The Congress has now received from the District of Columbia and the Department of Transportation their respective reports as required by the act. The reports are for the most part in disagreement with each other and are radical departures from the 1968 act. [District of Columbia Appropriations for 1971, Hearings before a Subcommittee of the Committee on Appropriations, Part 1, U.S. House of Representatives, 91<sup>st</sup> Congress, 2<sup>nd</sup> Session, H181-37, page 385]

He voiced his concerns publicly in an “extension of remarks” on March 2. He said the 1968 Act was intended “to clarify the confusion which had reigned for so many years” regarding the District freeway network. By contrast, the two reports “presented a confusing set of recommendations” that were in “wide variance from what is contained in the 1968 Highway Act.” While these reports were being developed, the city’s freeway program “again showed signs of bogging down and for the same old reasons.”

The Congress, he said, “cannot sit idly by and allow millions of dollars of taxpayers’ money to be wasted in an unending series of studies” that would never result in agreement, much less construction, among the public bodies involved. “Nor can they permit projects to proceed which have only had superficial examinations, and little, if any, factual basis.” Even the Metro system, after “such painstaking effort” to get construction underway, “is subject to delays by the various recommendations.” Reluctantly, he concluded, “it is imperative that the Congress act to insure the Nation’s Capital a proper transportation system.” [The Interstate Highway System in the District of Columbia, *Congressional Record* – Extension of Remarks, March 2, 1970, pages 5554-5555]

The *Star* reported that the city’s recommendations and Secretary Volpe’s report were “unlikely to be taken seriously by the public works committee.” Whether in the Federal-Aid Highway Act of 1970 or a separate bill, “The committee will give the city its marching orders” based on the four freeways that Section 23 of the Federal-Aid Highway Act of 1968 had ordered the city to build. In specifying the four freeways to be built, the “city was given no other option for these roads.”

Secretary Volpe’s comments on the Potomac River Expressway, one of the four Congress had ordered built immediately, were singled out for criticism:

Volpe, according to congressional sources, suffered a serious loss in credibility by offering advice on the building of the Potomac River Freeway – a road that the city already has been ordered to build, with its route spelled out in the 1968 legislation . . . .

The FHA [sic] had long opposed plans – endorsed by Congress – to place the east bound lanes in a tunnel, permitting renewal of the waterfront, including the tearing down of the Milton Hopfenmaier Co. rendering plant.

Even President Nixon, in order to insure subway funds would be released, assured Congress the District would build the Potomac River Freeway and the three other projects ordered in the 1968 law.

Volpe, Congressional sources believe, never would have commented on the Potomac River Freeway, had he realized the full political meaning of his statement. They believe he was the victim of poor staff work. [Green, Stephen, "Congress to Draft Freeway Orders," *The Evening Star*, March 2, 1970]

On February 26, a three-judge panel of the U.S. Court of Appeals heard arguments in the Three Sisters Bridge suit. Roberts Owen, representing the anti-bridge groups, argued that public hearings and other steps required to comply with Title 23, as required by the 1968 Act, had been skipped. He added that Secretary Volpe had never approved the bridge as required by Federal law.

Thomas L. McKeivitt of the Justice Department told the panel that the Johnson Administration and Secretary Boyd had opposed the bridge. However, as reflected in the 1968 Act, Congress supported it. "The administration changed and the whole [attitude] in the Department of Transportation changed . . . . We finally had the administration back in tune with Congress, that's all that happened." He pointed out the "notwithstanding" provision in Section 23 that made clear the congressional intent that construction of the bridge begin immediately regardless of any other law, court decision, or administrative action.

At the same time, 10 national and local environmental groups filed a friend of the court memorandum in the case. They contended that the Three Sisters Bridge "threatens to destroy for all time the scenic and recreational values of the Potomac River Gorge. The bridge would harm parks, traffic, recreational facilities, air quality, and the Georgetown Historic District. [Eisen, Jack, "Environment Groups Ask Bridge Halt," *The Washington Post and Times Herald*, February 26, 1970; "Bridge Suit Sent to Court of Appeals," *The Evening Star*, February 26, 1970]

### **The Washington Plan**

WMATA, on January 22, announced that because of the 14-month delay in securing the District's matching funds from Congress, the opening of the first section of Metro would be delayed about 7 months. Instead of opening in December 1972, WMATA now hoped to open it in July 1973. Other sections of the original bobtail Metro would be delayed for several months, but extensions to complete the 97.7-mile system were on schedule.

James Gleason of the WMATA board commended WMATA staff for the "great achievement" of cutting down the 14-month delay to a 7-month lag in the opening. Lee Flor reported:

Roy Dodge, chief of engineering and operations for the agency, said construction schedules could not be shaved in any other place and said any further delays in appropriations, labor strikes or other delays could not be accommodated by reprogramming to meet the completion date. [Flor, Lee, "Funds Lad To Delay D.C. Metro," *The Evening Star*, January 22, 1970]

On January 26, a new coalition called the Washington Area Construction Industry Task Force, held a press conference at the District building to announce a drive to put black workers into

construction jobs in direct relation to the city's percentage of black population, then at 74 percent. The so-called "Washington Plan" differed from the approved "Philadelphia Plan," which called for an agreed percentage of black workers, not the equivalent of black population in the city.

Clifford L. Alexander, counsel for the coalition and BUF, said, "In a city where the population is three-quarters black, the first two contracts let by Metro to white contractors asked only that they present a plan for the training of 5 percent of the total work force." Calling this percentage a "manifest absurdity," he pointed out that the contracts did not require the contractors to hire black workers who already had the needed skills, that training must cover every skilled craft, and increased involvement of black contractors.

Marion Barry, Jr, of Pride, Inc., said the 20 organizations in the task force concluded that immediate action was needed to ensure hiring of black people. The task force, which he said would monitor Metro projects on a daily basis to ensure its goals are met, was not focused exclusively on the subway work. Barry said the task force's aim was equal employment opportunity in "all of the building trades," including "federal construction projects, FHA and HUD housing projects, those of the District and the work of independent agencies such as the Washington Metropolitan Area Transit Authority."

Alexander agreed that Metro was "only a part of the over-all picture." The task force would "press for the implementation of its objectives on every construction project in this city. The time has come, and long since passed, for the full and fair participation of the black man in every aspect of construction work in this city." Although Alexander threatened court action, the Reverend Douglas Moore of BUF called on black residents to mobilize and "use any damn means necessary" to block Metro if the task force's goals were not met.

The next day, the *Star* reported that the "broadside attack yesterday on alleged racial discrimination in the District's building trades by a new coalition has taken aback the leadership of the city's unions . . ." City Councilman Yeldell, WMATA's chairman in 1970, said the coalition's objections "already are the stated objectives of Metro." He said WMATA was working on programs to hire and train the hard-core unemployed and expected the workforce to include about 70-percent minority workers.

Former Councilman Turner, president of the Greater Washington Central Labor Council, AFL-CIO, considered the task force's attack "just undeserved." He said that organized labor in Washington had the best anti-discrimination record in the country. He also pointed out that Metro was a regional project, not a Washington project. Using the task force's logic, Metro contractors should employ about 22 percent minority workers because minorities constituted

22 percent of the area's population. [Basham, William, "Blacks Ask 74% of Building Jobs," *The Evening Star*, January 26, 1970; Basham, William, "Black Demands For 74% of Jobs 'Stun' Unions," *The Evening Star*, January 27, 1970]

WMATA and the Department of Transportation negotiated with the task force after rejecting the initial proposal to require contractors to hire a workforce that included 74/26 percent black/white ratio.

Secretary Volpe, who had taken aggressive steps from the start of his tenure to increase African-American participation in the upper ranks of the Department of Transportation, announced on February 17 that his department would assume compliance responsibility to assure equal employment opportunity on Metro construction projects:

Metro contractors and subcontractors will be required to take affirmative action which will result in employment of minority group persons throughout their work force. This means that contractors and subcontractors will have to provide for employment of minorities in high-paying, skilled jobs as well as unskilled and semi-skilled jobs. If minority persons are not available for the skilled jobs, programs will have to be developed to train them.

UMTA would work with WMATA to spell out equal opportunity obligations in bid specifications. Secretary Volpe expected UMTA to ensure full compliance:

We expect to have 100 percent cooperation in this effort from all parties interested and involved, including WMATA, the contractor organizations, labor unions, and community organizations concerned with equal employment opportunity. This is a truly metropolitan undertaking and we want cooperation from all quarters.

He expected WMATA to ask contractors already at work to comply with the program voluntarily even though it was not part of their contracts.

WMATA's board of directors agreed to consider adopting an affirmative action plan on its construction contracts. General Graham had suggested that his staff draft a plan, but the board established a committee of its members to do so (Yeldell, Spellman, Councilman Moore, and Carlton Sickles). Gleason expressed concern that an affirmative action commitment might raise the costs of the contractors with the first two contracts who had bid on the basis of specifications that called on them to design their own minority hiring plan.

The authority asked the first active contractor, Gordon H. Ball, Inc., to suggest a more detailed plan than the 5-percent requirement in the contract. The *Star* reported that at the time, Ball had 17 employees on the project in the Judiciary Square area, all African-Americans. He expected to hire approximately 300 workers, and planned to work with Project BUILD, Inc., on its minority hiring plan. ["Subway Agency to Consider Minority-Hiring 'Action' Plan," *The Evening Star*, February 19, 1970]

On March 3, Harold D. Williams, director of UMTA's Office of Civil Rights, ordered a halt to the awarding of further WMATA contracts until the Department of Transportation approves a minority employment program. The order did not apply to the first two contracts, already awarded, or a third contract on which WMATA had just opened bids. It would take effect with

the next bid opening, scheduled for March 18, for construction of the subway between Judiciary Square and Union Station.

General Graham announced the freeze to construction industry representatives after opening bids for the third construction contract. He said there was “no justification for holding up the Metro program for the National Capital Region at this early stage of a 10-year construction program. Last week there were 17 metro construction workers, incidentally all black. By July, there will be only 100 workers total and by a year later 1,000. The maximum employment of 5,000 will not be reached until 1973,” he said, adding that WMATA had 238 additional contracts to award.

WMATA was working on its affirmative action plan, but wanted to canvass all of its political jurisdictions and community organizations before presenting its plan to UMTA. General Graham said, “We recognize the authority of the Department of Transportation in this matter, and are proceeding to develop an acceptable program as rapidly as possible.”

Gleason called UMTA’s action “irresponsible” in view of WMATA’s assurance that it would comply with all fair-employment requirements. WMATA Chairman Yeldell conceded the department’s authority and said “the board has no choice but to abide”:

It would appear to me that there is no insurmountable barrier because the affirmative action program must be worked out anyhow. Perhaps this will put an added spur to get this worked out soon.

Clifford Alexander declined to comment until WMATA’s rules were ready for adoption. He did say, however, that, “We don’t want any delays” on the subway, “but we do want it built with black hands and white hands.” [Green, Stephen, “U.S. Halts Metro Contracts Pending Minority Job Plan,” *The Evening Star*, March 4, 1970; Eisen, Jack, “Metro Told to Halt Bids, Await Fair Hiring Rule,” *The Washington Post and Times Herald*, March 4, 1970]

With negotiations deadlocked, WMATA’s directors met with Secretary Volpe on March 11 to ask him to end the freeze. Chairman Yeldell told reporters that WMATA agreed that an affirmative action program was needed and should be drafted quickly. However, the directors did not believe a freeze that could delay the construction timetable was needed. “We hope that we will be able to resume awarding contracts by March 25,” the date set for bid opening on the postponed contract.

Meanwhile, the task force sent a telegram to Secretary Volpe asking to inspect the plan before it could be approved. “We stand ready at any time to meet with you and consider what you may have developed to meet our stated goal of 70-80 percent minority employment in each tract [sic] having any responsibility with the construction of Metro.” [Green, Stephen, “Volpe Asked To End Metro Bid Freeze,” *The Evening Star*, March 12, 1970]

On March 16, Secretary of Labor George P. Shultz announced that his department would hold hearings on a “Washington Plan” on April 13 and 14. He said his department has been “actively promoting hometown solutions of matters like this and we hope the information we develop will prove useful for such a solution in this area.”

In view of Secretary Schultz's announcement, Secretary Volpe lifted the freeze on Metro contracting on March 17. The Labor Department's proposal to develop a Washington Plan offered "the best answer not only to minority employment problems in the area but also to the critical need for skilled manpower in the construction industry." Another factor in his decision to lift the freeze was WMATA's plan to hire "an equal employment opportunity officer oriented to the interests and problems of minority citizens in the Washington area." The new officer would ensure compliance by contractors and subcontractors with their obligations to make maximum use of minorities in the Metro construction program. The officer also would be responsible for equal opportunity hiring within WMATA and would solicit participation by minority contractors.

With the freeze lifted, WMATA opened the bids for the contract that had been postponed from March 25 because of the freeze. ["Hearings Orders on D.C. Hiring," *The Washington and Times Herald*, March 17, 1970; "Volpe Lifts Metro Pact Ban While Job Plan Is Devised," *The Evening Star*, March 18, 1970; Carter, Philip D., "Ban Lifted On Metro Contracts," *The Washington Post and Times Herald*, March 18, 1970]

Potomac Watch's African-American columnist, William Raspberry, pointed out that although Secretary Volpe said he was lifting the freeze because of the Labor Department's announcement, that announcement offered "a good deal less" than what Secretary Volpe implied. Hearings could be useful, but Raspberry warned against confusing the gathering of information "with the development of a plan, nor even with any real intention of developing a plan." He doubted Secretary Volpe's stated motives. "The suspicion is that Volpe's recantation had nothing to do with Labor's announcement but was a result of pressure from the White House, the Transit Authority and, indeed, from members of his own staff." [Raspberry, William, "U.S. Backs Down On Metro Hiring," Potomac Watch, *The Washington Post and Times Herald*, March 22, 1970]

In any event, the lifting of the freeze was short lived. On April 8, Secretary Volpe ordered WMATA to stop awarding construction contracts in view of the Labor Department's commitment to approve a Washington Plan for minority employment by June 1. Assuming the Labor Department met its new schedule, WMATA faced a 2-week delay in awarding a contract, estimated at \$30 million, for construction of the Metro Center station and a smaller contract for work in the Union Station yards.

Secretary Volpe expected the freeze to cause "minimal disruption to the construction schedule, but WMATA's board members were not happy about this second freeze. Fairfax County Supervisor Herbert E. Harris II responded angrily, "I'm having the worst time understanding this situation. At what point does [WMATA] act like an independent authority and stop acting like a federal agency?" Chairman Yeldell asked staff to reply to Secretary Volpe informing him that the delay in awarding contracts would not only increase the cost of the subway but could hinder WMATA's ability to sell construction revenue bonds. Moreover, WMATA was developing its own affirmative action program to be written into contract specifications. That plan would be used if the Labor Department did not meet its schedule for developing a Washington Plan.

That same day, WMATA announced the hiring of Pete Brown, described in the *Post* and *Star* as "a Negro who lives in Takoma Park" as the first equal employment officer for the agency. At the

time of his hiring, he held a similar job with the Labor Department. [Green, Stephen, "Volpe Again Halts Metro Contracts," *The Evening Star*, April 9, 1970; "Volpe Clamps New Freeze On Metro Jobs," *The Washington Post and Times Herald*, April 10, 1970]

One question that WMATA's directors had was whether the freeze applied to any other Federal contracting in the Washington area. Staff said the freeze applied only to WMATA. On April 13, the Department of Transportation ordered a freeze on the award of Federal-aid highway and airport construction contracts in the Washington area pending imminent completion of the Washington Plan. Richard F. Lally, the department's civil rights director, issued the order while asking the Labor Department to extend the freeze to other federally funded projects in the area. "This is the Nation's Capital," he said. "We should set an example here." The freeze was expected to delay contracts for widening portions of Maryland's Capital Beltway, rebuilding parts of the Shirley Highway, and several non-Interstate roads in the area, as well as two airport projects. ["U.S. Orders Area Freeze on Highway Contracts," *The Evening Star*, April 13, 1970]

After the first day of the Labor Department's hearings, Jack Eisen described the day:

In contrast with similar hearings on a job plan for Chicago last September during which the federal building was ringed by angry white union members who clashed with police, yesterday's session in the department auditorium was so subdued that it verged on the ponderous.

William D. Wright, a vice chairman of the Washington Construction Industry Task Force, walked out after saying he would "disregard these hearings as a useless and invalid attempt to pacify the black community." He did so after his group was denied its request to cross-examine witnesses.

Wright had given Assistant Secretary of Labor Arthur D. Fletcher, the presiding officer, a letter signed by eight black Democratic members of Congress describing cross examination as critical. "What we have here is simply government witnesses talking to each other in public":

Only if the advocates for the community have a right to cross examine and question . . . can we begin to hope that this hearing can result in a complete and accurate picture of employment practices in the construction industry.

Fletcher denied the request, prompting Wright's walkout.

(The eight Democratic signers of the letter were Shirley A. Chisholm (NY), William L. Clay, Sr. (Mo.), John Conyers, Jr. (Mi.), Charles C. Diggs, Jr. (Mi.), August F. Hawkins (Ca.), Robert N. C. Nix (Pa.), Adam Clayton Powell (NY), and Louis Stokes (Oh.))

During the hearing, HUD Assistant Secretary for Equal Opportunity, Samuel J. Simmons, testified that 19 of 28 contractors working on HUD-financed projects in the area were violating anti-discrimination rules. He also said his recent study showed that in 10 skilled trade unions in the area that included 11,700 craftsmen, "fewer than 12 percent were Negro, and the opportunity to enter any of the trades for minorities remains severely restricted." He urged the Labor Department to crack down on such practices.



Chairman Yeldell testified about his concerns that the Labor Department's schedule for producing the Washington Plan would slip, causing delay in construction of the critical Metro Center station. In reply, Assistant Secretary Fletcher promised that if the plan was delayed, the Labor Department would work with Metro "to see if we can't take the pressure off" by helping complete a minority employment action plan to include in the contract so it could be awarded on June 2 in the absence of an approved Washington Plan.

Labor representatives, including former Councilman Turner, defended the unions against discrimination charges. Turner touted Project Building, which he said would train young Negroes and other minority groups to help break down job barriers. [Eisen, Jack, "Area Projects Frozen To Push Black Hiring," *The Washington Post and Times Herald*, April 14, 1970; Green, Stephen, "Negroes in House Press Quizzing of Hiring Witnesses," *The Evening Star*, April 14, 1970.]

On the second day of the hearings, ECTC's Booker, now also chairman of the Washington Area Construction Industry Task Force, staged a demonstration outside the Labor Department. Protestors, totaling between 20 and 40, circled the sidewalk for more than an hour. They criticized for the Labor Department for refusing serious consideration of the task force's demand that minorities receive 70-80 percent of Metro construction jobs. Accompanying Booker, Sammie Abbott explained the relationship between the task force and the "transportation crisis" saying, "To get the subway built, we're going to have to get jobs for blacks."

Assistant Secretary Fletcher invited Booker to testify. Booker declined in the absence of a written invitation and approval of the task Force's executive committee. He added that the task force had not submitted a detailed proposal because its spokesmen were not permitted to cross examine witnesses. "This is just the beginning," Booker said. "Next time we'll be back with 500 people . . . we want you to know we're serious," he told the Labor Department officials who extended the invitation.

Chairman Yeldell sent a telegram to Secretary Volpe warning that the freeze could cost the agency \$84 million in Federal funds. "The June 1 target date may be too late for the Senate to act favorably on our supplemental money request. This . . . could result in Metro having no federal funds, thereby running the risk of the entire transit program being scuttled."

On May 6, Clifford Alexander called for an end to the contract freeze. To avoid peril to the subway, he recommended that the Transportation and Labor Departments allow WMATA to resume awarding contracts that "put the burden on the contractors" to hire minorities while the Washington Plan is completed. The task force would keep a close watch on hiring. [Green, Stephen, "Metro Says Contract Freeze May Bridge \$84 Million Loss," *The Evening Star*, May 4, 1970; "Freeing of Funds For Subway Asked," *The Washington Post and Times Herald*, May 7, 1970]

The pending contract for the Metro Center Station was described at the time as the largest single contract in the construction program. The opening of bids was scheduled for June 3 if the Labor Department released the Washington Plan on June 1 and Secretary Volpe lifted the freeze. WMATA's problem was that to include the plan in the Metro Center Station bid documents, the

plan had to be available by May 21. WMATA had a backup plan to include the new WMATA affirmative action plan if it did not have Labor Department's plan by then. [Green, Stephen, "Metro Awaits Green Light on Pact," *The Evening Star*, May 18, 1970]

Secretary Volpe did not appreciate the criticism he was receiving for the freeze. The final straw was an article, labeled "an editorial," in WMATA's staff publication *Metro Memo*. It stated that "assurance that Metro will continue to move ahead will require almost immediate action by the Departments of Transportation and Labor on the issues of minority hiring." It added that, "any slight delay at this time would place serious strain on the delicately balanced plan for financing the construction of Metro. Substantial delay would render the financial program inoperable."

After seeing the article, Secretary Volpe called Chairman Yeldell. As described in the *Star*:

Volpe . . . said he had been hurt over the criticism of the freeze voiced by area newspapers and radio and television stations.

Volpe said he does not believe it is fair for the authority to promote critical remarks of his order, since he helped the subway agency obtain release of construction funds from Congress last year.

In a letter to Secretary Volpe, General Graham wrote:

WMATA has neither fed self-serving information nor has it promoted for selfish reasons any editorial comment on the existing freeze . . . . Because of my high personal regard for you, I have been distressed at some of the more intemperate criticism, but I am also distressed that you feel WMATA is culpable in this regard. [Green, Stephen, "Volpe Assails Metro On Criticism of Freeze," *The Evening Star*, May 27, 1970]

As promised, Secretary Shultz issued the Washington Plan on June 1, with the plan going into effect immediately. It imposed mandatory quotas for the hiring of minorities on Federal and Federal-aid construction projects in the Washington area. As the *Post* described it:

Under the plan . . . approximately 3,500 minority-group workers must be hired in 11 skilled construction trades here by employers on such federal jobs as construction of the Metro subway system, highway building and federally subsidized housing projects . . . .

The Washington Plan will cover all construction contractors with federal jobs of \$500,000 or larger in the entire Washington Standard Metropolitan Statistical Area . . . . The contractors will be required, by the end of the fourth year of the plan in 1974, to employ between 25 per cent and 43 per cent minority workers, with the percentage range varying from trade to trade.

Secretary Volpe released the freeze on contracting by WMATA, which scheduled bid opening for the Metro Center Station contract for June 16.

On behalf of the task force, Booker termed the plan "unacceptable":

We can't support any plan that doesn't guarantee us at least 90 per cent of all jobs on all levels – 70-to-80 per cent because of population and 10 per cent for reparations. This "Washington Plan" is an insult to the intelligence of the black community.

The Washington Building and Construction Trades Council, representing 20,000 union members, denounced the plan, saying the percentages were unattainable. It was "further evidence of the determination of the Nixon administration to continue to make a whipping boy of the construction industry . . . . We do not see the administration requiring 40 per cent minority employment in any other industry or institution of our society." Nevertheless, the council committed to complying "to the best of our ability, if we can get the people. We must comply."

The Construction Contractors council agreed that meeting the targets would "be a problem," but Executive Secretary John S. Oldfield said, "I think we'll be able to surmount it." The council's Project Building, which had been established in 1967, planned to place more than 500 minority workers in the industry over the next year. "The doors to union membership for qualified workmen in the building trades of this area are open and have been open. What we need is more jobs!"

The task force held a press conference at the Labor Department to denounce the plan. Booker wanted to hand the letter to Secretary Shultz, but he designated Fletcher, the department's highest ranking African-American, to receive it. The letter claimed the plan was diluted because it included the white Maryland and Virginia suburbs:

It serves little purpose to offer an unemployed but eligible black construction worker residing in D.C. a job in Reston, Va. or some other remote construction site when in his own city the overwhelming majority of jobs will continue to go to whites.

The plan, Booker said in the letter, "appears to reward unions such as the sheet metal workers, which have historically been guilty of the most discriminatory conduct, by applying its lowest ranges to the worst offenders." Further, the plan contained "an abundance of escape clauses" and probably was "unenforceable."

The letter repeated the task force's demand for 70 to 80 percent in all crafts for minorities, plus 10 percent for reparations for past discrimination in the construction industry. He was not concerned that the workers might lack the needed skills. "We're talking about black people right off the streets, skilled or unskilled. If they're unskilled, they can be given on-the-job training after being hired. We see no reason why the quality of work would suffer." That fear was a "smokescreen used by unions and the Labor Department to keep blacks out." The demands were, he said, nonnegotiable and warned that Washington blacks "will use whatever means are at our disposal" to meet them.

[Downie, Leonard, Jr., "U.S. Sets Quotas for Area Jobs," *The Washington Post and Times Herald*, June 2, 1970; Green, Stephen, "Shultz Issues Minority-Hiring Order," *The Evening Star*, June 2, 1970; "Agencies Laud, Task Force Scores Labor Plan on Area Minority Hiring," *The Washington Post and Times Herald*, June 3, 1970; Meyer, Eugene, "Washington Plan Goals

Criticized,” *The Washington Post and Times Herald*, June 4, 1970; “D.C. Group Demands Construction Jobs,” *The Baltimore Afro-American*, June 13, 1970]

On June 17, WMATA opened the five bids for the Metro Center Station contract, “the single biggest construction contract in the area’s rapid-transit building program,” as the *Star* described it. The apparent lowest, responsive bid, from Peter Kiewitt Sons Inc., of Omaha, Nebraska, was for \$37.9 million, 17.8 percent above the engineer’s estimate. WMATA had been concerned that the first contract awarded had been 17 percent above the estimate, while the second had been 20 percent over. When the third and fourth contracts were awarded below the engineer’s estimate, WMATA’s fears of price escalation had subsided somewhat.

Despite the concern about the bid being nearly 18 percent above the estimate, WMATA awarded the contract to Kiewitt, bringing total construction contracts to \$100 million:

Of 261 workers to be employed for three years on the Metro Center job, 48 iron workers, 9 pipe fitters and 14 electricians will be covered by an affirmative-action plan for minority hiring ordered by the Labor Department.

The Metro Center station will be a double-level, subterranean structure with the G Street subway line to Maryland on the upper level and the 12<sup>th</sup> Street line to Virginia on the lower level. [Green, Stephen, “Bid on Station For Metro 17% Over Estimate,” *The Evening Star*, June 18, 1970; “Extra Metro Costs Seen on G Street,” *The Washington Post and Times Herald*, July 3, 1970]

(Professor Schrag described the origins of the station’s name. “Graham held that it was better to make an imperfect decision than to tolerate delay”:

In one extreme case, WMATA planner William Herman complained that the system’s main transfer station was badly named. He argued that “12<sup>th</sup> and G” was both confusing (several entrances would be on other streets) and too undistinguished for so important a station. Ever reasonable, Graham agreed to let Herman choose a better name. “I’ll let you know,” responded a relieved Herman. “No,” Graham explained, “I’ll give you twenty seconds.” Stunned, Herman blurted out the first words that came into his head: “Metro Center.” “Fine, that’s it, go on to the next one,” replied the general. And they did. [Schrag, page 153])

## **On Appeal**

On April 7, the three-judge panel of the U.S. Court of Appeals ruled, 2 to 1, that the District must comply with Federal requirements in Title 23 on community participation. The ruling reversed Judge Sirica’s finding and returned the matter to his court to ensure compliance with the Appeals Court’s ruling.

As discussed earlier, Judge Sirica had found that in the 1968 Act, Congress had waived the pre-construction requirements of Title 23, including Section 134 (Title 23’s version of Section 4(f)) and public hearing requirements, because it ordered work to begin as soon as possible, but not later than 30 days from enactment of the 1968 Act.

Federal and city attorneys had restated that argument before the three-judge panel, but they disagreed. Circuit Judge Wright wrote:

If we were to accept appellees' interpretation of Section 23, we would be confronted with difficulties possibly of constitutional magnitude.

They did not believe that Congress had "intended to deny the residents of the District of Columbia the protections accorded all United States citizens by Title 23." The environmental provisions "are the essential safeguards which Congress has established, on a nationwide basis, to ensure that massive freeway projects are not constructed unless there has been a good faith effort on the part of the state and local planners to take community needs and resources into consideration."

If the District's and the Justice Department's arguments were valid, citizens affected by road projects would be divided into two classes:

One small group of citizens, the residents of the District of Columbia who will be affected by the Three Sisters Bridge, is deprived of these important rights to participate in planning the future of the community. The other class, consisting of all residents of the 50 states, still retains these federally guaranteed rights to influence all federally assisted road building.

This discrimination was only the starting point of the inquiry. Under the Constitution, many discriminations "are simply benign." The question, then, was "whether this discrimination is based on an invidious classification between groups of citizens which rises to the level of a violation of the equal protection clause of the Constitution." Appellees' interpretation "would endanger its constitutionality." Therefore, "We reject that interpretation to save the statute."

Since the city and the Department of Transportation conceded that they had not held a design hearing, Judge Wright wrote that "the District Court should enjoin further action on the bridge project until (the government) has complied." The ruling also called on Judge Sirica to determine what other requirements were still to be met.

Judge Wright summarized the history of the Title 23 provisions intended to "keep federally assisted highways from encroaching on local parks, from being located except in accordance with an intercommunity scheme of comprehensive planning, and to make sure that state planning officials are apprised of the nature and depth of local residents' feelings about the wisdom of a particular project." The 1968 Act had broadened the hearing requirement, which now involved location and design hearings, and required consideration of economic, social, and environmental impacts. "According to appellees, however, Congress, while broadening (in the Highway Act of 1968) this federally enforced right to a hearing, has at the same time deprived one small group, the citizens of the District of Columbia, of this right to be heard."

Congress would not have insisted on broader citizen participation "unless it intended to expose the road builders quite closely to the direction of participation of citizens in the formulation of their decision." Appellees argued that Section 23 directed District officials to bypass the hearing

process, which would again only “expose community sentiment adverse” to the bridge and that Congress intended construction to begin “irrespective of the wishes of the citizens of the District of Columbia.” Further, a public hearing would delay the start of work that Congress wanted to begin within 30 days, with construction to follow in 90 days:

Such a reading of the statute would condemn it as unconstitutional. A legislature may not constitutionally disenfranchise a group of citizens because of their expected views . . . .

If we were to accept appellees’ reading and interpretation of Section 23, congress would have excluded from the statutory protection only one group, a totally unrepresented and voiceless minority of citizens. Any legislative classification which singles out for invidious treatment a small group of citizens totally excluded from the political process does not meet the usual deference from this court. The usual deference which courts accord legislative and administrative judgments stems from the confidence which courts have that these judgments are just resolutions of competing interests . . . .

Because the resulting classification would deprive only an already voiceless minority of its important personal right to contest disruptive highway projects enjoyed by citizens generally, we conclude that we would be hard pressed to find on this record reasons adequate to sustain the “heavy burden of justification” necessary to support the discrimination which would result from appellees’ interpretation of Section 23.

The panel rejected the argument that this classification was justified by the congressional desire to avoid delay. If that were the intent, Congress could have found a “less burdensome path,” such as directing that the hearings be held “with reasonable promptness.” Whatever the justification or alternatives, “we are convinced that appellees’ position that Congress intended such discrimination is unsupported by the language and history of the statute.”

The panel also rejected the argument that Congress intended Title 23 to apply only to the project’s construction stage, such as the provisions on competitive bidding. The legislative history, including the Senate and House reports and the floor debates, contained no statement by advocates of Section 23 that the planning requirements of Title 23 did not apply to the Three Sisters Bridge or the other three projects mandated for construction. In fact, Judge Wright wrote, the only discussions were to the contrary:

For example, Representative Cramer, a leading proponent of Section 23, explicitly stated that the City Council could hold further hearings to determine route locations and designs, within the broad “corridors” established by Congress. Senator Randolph gave his word to the Senate that Section 317 of Title 23 would be in effect for a specific project mentioned in Section 23(d) of the Act. We also take note of the fact that when the bill was passed the Secretary of Transportation also interpreted Section 23 as we do today. The contemporaneous construction of a statute by one charged with its enforcement is entitled to great weight from this court.

Appellees had argued that hearings would be futile because the statute had prescribed the locations and design plans for the four routes. Congress, Judge Wright pointed out, had referred

to the routes as set forth in the 1968 ICE. “These cost estimates by their own terms did not constitute final route placements. They only located a ‘corridor’ within which roads were proposed.” Therefore, the panel found nothing in the record indicating that a public hearing or other actions required by Title 23 would not serve a useful purpose. Moreover, Section 101 of Title 23 defined “construction” to include many pre-construction stages, including planning, not just physical construction.

In short, Congress had directed construction to begin on a bridge following a general configuration used in the 1968 ICE. In a public hearing forum, “citizens may well be able to offer constructive alternatives” for bridge design and location, including placement of access ramps, that could be adopted. Similarly, the Secretary of Transportation might find “other feasible routes, or a tunnel, [would] destroy fewer acres of valuable park land.”

As for the “notwithstanding” clause, Congress intended to counter the prior ruling by the U.S. Court of Appeals that the District was developing Interstate freeway projects in violation of the 1893 District highway statute. The city, Judge Wright wrote, could have gone back and complied with that 1893 statute’s provisions for the Three Sisters Bridge. Instead of doing so in the case of the Three Sisters Bridge, the city abandoned the project, NCPD disapproved the bridge, and the Secretary of Transportation removed it from the Interstate map. The panel recognized that Congress intended by the “notwithstanding” clause to exempt the four projects from the Appeals Court’s ruling as well as the administrative actions of local and Federal agencies:

But nothing in the statute indicates that Congress intended the Bridge to be built contrary to its own laws. In essence, then, Section 23 amounts to a direction from Congress to the relevant District and federal officials to continue with the bridge and highway plans they had been formulating prior to the Airis decision.

Therefore, the panel held that the Three Sisters Bridge project must comply with all applicable provisions of Title 23. Because Judge Sirica had ruled otherwise, “we remand the case to the District Court for an expedited evidentiary hearing to determine whether appellees have in fact complied with the provisions of Title 23.”

To aid in the District Court review, Judge Wright observed that Judge Sirica, after hearing the evidence, could determine whether the 6-year old hearings, which appellees had referred to, satisfied 23 U.S.C. 128:

The basic requirement is that both a location hearing (held “before the State highway department is committed to a specific proposal) and a design hearing (held “after the route location has been approved, but before the State highway department is committed to a specific design proposal”) must be scheduled. The regulations make specific provision for projects like this one on which some hearings have been held before the effective date of the regulations. Since the regulations apply by their terms and since in promulgating the regulations the Secretary made reasonable provisions for those projects which had been the subject of hearings before the effective date of the regulations, we see no reason not to apply these regulations to this case.

Chief Judge Bazelon, a member of the three-judge panel, concurred “that the case must be remanded to determine whether there has been compliance.” His views were based on the statutory language and legislative history. Therefore, he did not find it necessary “to reach the constitutional questions.” The statutory history revealed “a fundamental conflict”:

Undoubtedly some legislators thought that a statute ordering immediate construction of the Bridge would eliminate the necessity for at least some preliminary procedures. Others contemplated that the statute would simply reverse the District government’s inaction and compel the government to recommence work on the bridge in compliance with the procedures of Title 23. The conflict produced an ambiguous statute, compelling the court to resolve the disagreement.

The plain language of Section 23 directed the city to begin work on the bridge in accordance with all applicable provisions of Title 23 within 30 days. Congress could have expressly exempted the bridge project, and the other three projects cited, from the planning and hearing provisions of Title 23, but did not.

The panel’s interpretation was “further fortified” by avoiding treatment of “District residents less favorably than all other citizens with respect to the federal highway system.” Aside from constitutional or other considerations, “we should not lightly presume that Congress has deprived District residents of an opportunity afforded to all other citizens, at least in the absence of the clearest legislative mandate, which is lacking here.”

In dissent, Judge George MacKinnon disagreed with the majority’s description of the legislative history. A reading of the entire record convinced him that “Congress clearly directed that the Three Sisters Bridge be built immediately and I do not find that such direction was improper or invalid.”

The majority had not found any support in the legislative history for exempting the District of Columbia from complying with the pre-construction phases of “construction.” On the contrary, Judge MacKinnon cited Chairman Randolph’s remarks during Senate consideration of the conference report on July 29. Despite reservations, especially about the Three Sisters Bridge, he said the Senate conferees had agreed to construction of the bridge as long as the project protected Glover-Archbold Park. He also referred to the fact that “design of the bridge” would not intrude on the park. Judge MacKinnon asked, “Does this sound as though the ‘design of the bridge’ was still an open question?” He answered, “Obviously, it was not and Senator Randolph so recognized.”

He dismissed the individual views of members of the House and Senate because what matters was the intent of Congress as reflected in the words of the law. “No disclaimers by individual Senators or Representatives can effect [sic] what the two houses did collectively by adopting the bill *with* the D.C. highway provisions.” Moreover, all discussion of the matter assumed construction of the bridge in the current location and design.

The legislative history cannot be “twisted,” as the panel had, to argue that the Three Sisters Bridge required additional design. Other projects, particularly the Potomac River Freeway, did



require design work, but the bridge “had an approved design” that would affect the design of the freeway.

He also disputed interpretation of Representative Cramer’s comment cited by Judge Wright:

Congressman Cramer said in effect that the D.C. City Council could still hold hearings as to location within the corridors of the *interstate highways* to be constructed. His remarks were directed generally to the House bill *at that time* which directed that “all routes” of the Interstate Highway System in the District be constructed – not just the four projects now contained in section 23.

His comment applied to the Interstate highways generally, not specifically to the bridge. Neither the conference report nor the final version of Section 23 existed at the time he addressed his colleagues on the House floor; his comment could not have general application to interpretation of the enacted provision.

Judge MacKinnon also cited the statement of the House managers contained in the conference report, which Judge Wright had cited but not quoted. The managers had cited NCPC’s prior action, but did not require further action by that agency. The managers clearly were not ordering extensive hearings to be held on location and design, “pre-construction requirement preliminaries which had already been satisfied as the statement observed” by referring to the agreement in early 1966 by all parties as to the location of the Three Sisters Bridge. The statement also pointed out that consultant engineers had completed design, which had been approved by the Commission on Fine Arts on September 20, 1967.

The majority’s remarks referring to all applicable provisions of Title 23 reflected confusion. They failed to understand that the reference to Title 23 applied to four projects in different stages, not just to the Three Sisters Bridge. He summarized the status of the four projects. As reflected in the House statement, Congress directed the city to begin work within 30 days so that the construction contract could be advertised within 90 days.

“Now it is perfectly obvious from this factual situation that nobody in Congress was going to designate what provision of Title 23 did not apply to any particular project because *all provisions applied to some of the projects.*” Instead, Congress referred to each project advancing with applicable provisions of Title 23. If the intention had been that all four projects must comply with all provisions of Title 23, Congress would have deleted “all applicable provisions of” from the statute.

That it did not do so resulted in the logical conclusion that different provisions applied to each project. To test this logic, Judge Wright applied it to the Center Leg Freeway, which was under construction. Applying all Title 23 requirements, including the public hearing requirement, to this project “would be an absurdity and hence the rigid application of *all* Title 23 provisions to *all* the projects must be rejected as unreasonable and obviously not intended.”

He also rejected Judge Wright's application of the U.S. Court of Appeals' decision related to the 1893 law in the District code. Section 23 clearly was intended to "supply the congressional directive to the projects that the court had found to be absent in the first case":

So to permit the same plaintiffs, with the court's concurrence, to obstruct the second congressional directive on grounds they failed to allege in their first action, and to do so under the guise of carrying out the intent of Congress, is not a result that commends itself to sound judicial administration.

As for 23 U.S.C. 128, it requires the State highway agency to certify that it has had public hearings or offered the opportunity for them. FHWA had submitted an affidavit on October 16, 1969, that "is substantially uncontroverted," stating that public hearings had been held on November 22, 1961, and November 24, 1964, and asserting that the city requested project approval on September 21, 1966, within 3 years of the hearings. The affidavit also stated that planning requirements had been satisfied along with consideration of social, economic, and environmental impacts as required by Section 128. Based on the uncontested record, "there is no basis for sending the case back for section 128 compliance hearings. Full compliance shows from the record."

Further, the affidavit demonstrated that in approving the project on August 12, 1969, Secretary Volpe had determined that under Section 4(f), no prudent or feasible alternative existed to the taking of parkland and that all planning had taken place to minimize harm.

Regarding hearings, the majority called for location and design hearings, a requirement contained in the PPM of January 17, 1969, "some *five months after* congress passed the law directing that work begin on the Three Sisters Bridge within 30 days and that within 90 days 'substructure contracts be advertised for construction.'" Clearly, Congress would not require public hearings to change the location and design of a project that it expected to be advertised for construction within 90 days. As a result, the panel's opinion directing such hearings "creates a monstrous result and completely frustrates the express will of Congress."

Further, Congress intended that the only applicable provisions of Title 23 that applied to the Three Sisters Bridge related to physical construction. "Such interpretation of the sentence would be reasonable and would not attribute to Congress an intention to require duplication of prior planning that had already been completed with respect to the Three Sisters Bridge when Congress enacted section 23."

Judge MacKinnon rejected the majority's characterization of the District's residents as a "voiceless minority" being abused by Congress. Their success "in obstructing this project now for onto four years is mute testimony that they are not 'voiceless.'" They had access to the press as well to Members of Congress who lived in the District and nearby suburbs, giving "them more actual influence in Congress than citizens of states."

In fact, the District had developed the Interstate projects in accordance with the same Title 23 provisions that the State highway agencies used in developing their Interstate projects. The District and State highway officials complied with the provisions in existence at the time of their

actions. “There is no showing that amendments to the Federal highway laws were made to apply *ex post facto* to highway projects that had previously passed through particular stages *before* new provisions were added.” He concluded:

I do not consider that the 1968 amendments to title 23 or the 1969 PPM require any project to be backed up for different consideration of planning or construction phases that it had previously passed through. I would affirm. [*D.C. Federal of Civic Associations, Inc., et al., v, John A. Volpe et al.*, 434 F2d 436 (1970), No. 23870), April 6, 1970. Italics in original.]

The same three-judge panel was considering other freeway suits involving the East Leg of the Inner Loop Freeway and the Potomac River Freeway. On April 7, the panel ordered the city not to approve contracts for construction of the East Leg Freeway pending a decision in the case, which plaintiffs had based on the same objections as their case against the Three Sisters Bridge. The Center Leg Freeway, which was under construction, was not subject to litigation.

[Bernstein, Carl, “Review Eyed Of Court Rule On 3 Sisters,” *The Washington Post and Times Herald*, April 8, 1970]

### **Reaction to the Decision on Appeal**

How long a delay would be needed to comply with the ruling was unclear.

After reading Judge Wright’s ruling closely, city officials concluded that the delay in construction would not be lengthy. Judge Wright had not specifically stated that proper hearings had not been held; the court’s majority simply asked Judge Sirica to make that determination. As Judge MacKinnon had stated, two hearings had been held that, in FHWA’s view, satisfied the requirement. For that reason, the three-judge panel had not ordered work on the bridge to stop. That would be Judge Sirica’s decision. If he concluded that needed hearings had been held, as Judge MacKinnon had found and as the city believed, the bridge project could proceed under the current contract.

The city’s concern was stated by Assistant Corporation Counsel Richard Barton, who said “the Court’s language would appear to apply to all other segments of the freeway system. For that reason, he said, the city would seek an *en banc* review (by the nine judges of the U.S. Court of Appeals) of the panel’s decision because “the whole freeway program now is in doubt.”

Attorney Owens said he would seek a preliminary injunction to halt construction of the Three Sisters Bridge if the city did not voluntarily stop work. He declined to say whether he would seek injunction to halt the three other freeway projects that city officials conceded had advanced without design hearings. However, a city “source noted ruefully,” according to the *Post*, “that once the freeway program is enjoined, citizens groups will do everything within their legal power to keep the projects from being built.” [Osnos, Peter, “Hearings Ordered on Three Sisters,” *The Washington Post and Times Herald*, April 7, 1970; “D.C. Aides Don’t Expect Long Halt on 3 Sisters,” *The Evening Star*, April 8, 1970; Bernstein, Carl, “Review Eyed Of Court Rule On 3 Sisters,” *The Washington Post and Times Herald*, April 8, 1970]

The *Star* agreed with Judge MacKinnon that the Wright ruling was a “monstrous” distortion of the clear intent behind Section 23. The question was “whether Congress meant what it said.” Chief Judge Bazelon, in a brief concurring opinion, had said the congressional intent was “ambiguous,” but the *Star* said:

It seems inconceivable that any such ambiguity existed in the minds of the members of Congress. Public hearings on this project, as Judge MacKinnon noted, had previously been held. There was no serious evidence of congressional uncertainty or dissension as to the location or design of the bridge. Congress directed that construction proceed “notwithstanding any other provision of law, or any court decision or administrative action to the contrary.” And it specifically set 30-day and 90-day deadlines during which various stages of progress were to be achieved.

The editors suggested that it was “at least conceivable . . . that in the course laid out by the Wright-Bazelon ruling the situation might work itself out.” They cautioned:

But no one should bank on it. The history of this long dispute has been chiefly distinguished by cleverly orchestrated delays, one leading to another, stalling not only a rational transportation system for the Washington area but jeopardizing the city’s fiscal relationship with Congress as well.

Congress thought it had “broken the stalemate,” but additional congressional action might be needed. In the meantime, the *Star* recommended an appeal to the full Court of Appeals “in the hope of a swift, reasonable redress through legal means.” [“Three Sisters Showdown,” *The Evening Star*, April 10, 1970]

### **Superhighway-Superhoax**

Helen Leavitt, mentioned earlier, was a free-lance writer and civic activist who lived in the Dupont Circle area. She found that her home was in the path of the North Leg of the Inner Loop Freeway, then proposed to run along R or S Street off Connecticut Avenue, NW. What particularly incensed her was the claim that the freeway would help the neighborhood’s development. “I’ve never seen a freeway revitalize a neighborhood,” she told a *Post* reporter, Judith Martin, shortly after her book, *Superhighway-Superhoax* was published in April 1970 (Doubleday and Company).

The book, which she had begun working on in 1967, was a denunciation of every aspect of the Federal-aid highway program, including urban Interstates, the highway lobby, road officials, and the Highway Trust Fund. The “never ending flow of Highway Trust Fund money,” she said, had created “the vast imbalance in our transportation situation.” As a result, “the highway program is simply not subject to the same competitive pressures as other programs.” The Highway Trust Fund and its State counterparts “must be eliminated as an exclusive conduit of money for highways.” [Leavitt, pages 277-278]

One of her central ideas was that transportation “planning” was “guided by funding, not the other way around,” since “there was no money available for alternatives.” [page 277]

As for the since-abandoned route of the North Leg, she said it “would wipe out the core of this neighborhood of people of mixed ethnic, racial, and economic backgrounds. It would not, however, provide any funds to redevelop the blight that exists in the area. [page 18]

Although the book was a denunciation of the national highway program, Leavitt often illustrated her thesis by discussing the District’s freeway program. For example, she discussed Commissioner Duke’s deposition, January 3, 1967, in the lawsuit arguing that the city had not complied with the 1893 highway law. Responding to questions shortly before leaving for Vietnam, General Duke “admitted that no public hearings had been held on the latest alignment of the North Central Freeway.” BPR, he said, had assured him all requirements had been met:

The funds would not be given if they had not met the requirements established by the Bureau of Public Roads . . . . I am confident as I am sitting here that not only have the requirements of the BPR been met with respect to all of these projects, but the interest of the citizenry has been met at the same time.

He explained that if officials believed they could further improve the location of the freeway and reduce adverse effects of the freeway, *then* they held public hearings. But if they felt that the changes that had been made and the appearance of the freeway represented the best possible location and that further public hearings would not result in improvement, then no further hearings would be required. “If we don’t think that constructive suggestions with respect to the improvement of the facility would be forthcoming from a public hearing, we would not hold one.”

Leavitt noted, “That the law required the hearings seemed to elude him.” In any event, he admitted that neither he nor his fellow commissioners read the transcripts of the public hearings.

General Duke was asked if he consulted with Chairman Natcher about withholding funds for Washington’s rail rapid transit system. He replied “. . . I certainly would not deny that in the course of our discussions this problem came up.” [pages 94-96]

BPR and Members of Congress, she wrote, did not admit that freeway opponents had “an intelligent point of view to get across – that highways can do more harm than good.” She pointed out that ECTC’s Sammie Abbott “is summarily dismissed at the Bureau as a fanatic.” [page 182]

She also narrated the history of Section 23 of the Federal-Aid Highway Act of 1968. After Congress completed work on the legislation, President Johnson had been “deluged with letters and telegrams urging him to pocket veto the bill:

On the very day the pocket veto would go into effect if the bill was not signed, Senator Randolph, fearing the President would allow it to expire, hustled to the White House and pleaded with Mr. Johnson to sign the bill. The President went to the Texas White House that night at ten P.M. and took along the unsigned bill. By midnight, Texas time, he signed it.

She quoted President Johnson's statement on why he signed the bill despite his reservations, particularly about Section 23. [pages 222-223]

While writing about the period when Chairman Kluczynski was developing the freeway provision for the 1968 Act, she wrote:

In light of the attitude the newspapers have taken on the freeway issue, it is interesting to note that Washington *Star* vice president John W. Thompson, Jr., and Washington *Post* board vice chairman John W. Sweeterman and vice president Gerald W. Siegel are members of the Federal City Council and weekly receive their dose of freeway promotion to crank into their editorials. [page 107]

She ended her book, which was completed as Owen was going to court for the case that Judge Wright ruled on in on April 6, by recalling President Eisenhower's comments on seeing the plan for the District of Columbia. She recommended strict conflict of interest laws to avoid "the kinds of commingling of interests between public officials and representatives of private interests so prevalent in such organizations as ARBA and the Road Gang." In a discussion that contains material quoted earlier regarding President Eisenhower, she wrote:

In this manner, highway boosters in both private industry and public offices will no longer be able to mislead the public, a feat which they managed to accomplish with President Eisenhower at the time he endorsed the Interstate System in the mid-fifties. This was revealed in 1959 at a White House meeting at which Washington planners presented their proposed regional transportation plan for the city to the President.

After perusing the plan, which contemplated extending numerous interstate freeways into the heart of the District of Columbia, particularly I-95, President Eisenhower commented that he never thought when highway advocates proposed the interstate program to him that freeways would be extended into the centers of cities. He said he understood that the Interstate System would connect to the cities but not enter them.

One of the planners who was present at the 1959 meeting recalls that the President also commented at that time about the heavy commuter traffic he observed during his drives to suburban Maryland's Burning Tree Club for a game of golf. Mr. Eisenhower noted that a large number of automobiles was entering the city, but that most of these carried only one person. He suggested that since those automobiles clog streets and demand precious space for parking it might be feasible to limit the number of automobiles entering the city.

President Eisenhower's doubts and reservations about our highway program were voiced many years ago. They are even more valid today. [pages 298-299]

During an interview with a *Post* reporter, Leavitt pointed out that, "The birds down here look very, very sooty" near her home. "I don't know why they don't have lung cancer." The cause: the automobile, a foe that she and her husband had been fighting since moving to Washington 8 years earlier. "And when Mrs. Leavitt identifies an enemy, she goes after him." She told the reporter:

The automobile just doesn't belong in the urban scene. The time will come when people who feel they have to have an automobile will do what people do who feel they have to town a horse do – buy two-acre lots out in the country, where they can drive their automobiles around and around all they want.

There is a definite policy to make the automobile and the airplane the only means of transportation. They cut off all the other modes, and then say, "But people just love automobiles." I'd like to see the area blanketed with transportation – not just the Metro, but jitney service, adequate bus service in the suburbs, trains. I'd like to see the trolleys run again. They were sacrificed to the automobile.

Leavitt lived with her husband, their two sons who were in public school, and their dog Judy. [Martin, Judith, "Enemy: The Auto," *The Washington Post and Times Herald*, April 10, 1970]

Reviewing the book in the *Post*, Jack Eisen described it as "passionate in tone, selective in content and argumentative in thrust – so much, in fact, that it is guilty of overkill." To accept her thesis, he wrote, a reader must be prepared to believe that every highway supporter "is engaged in one huge conspiracy, motivated by greed or stupidity."

Freeways in many cities, "including over-maligned Los Angeles, perform the task of skimming off through or crosstown traffic (including trucks) and returning the regular surface arteries to their neighborhood residential and commercial purposes." Leavitt sought to dispel such a "notion" at every turn for "it is the automobile traffic itself that she sees as the basic villain. Freeways, she insists, induce unwanted travel to enter urban centers."

The best part of the book, Eisen wrote, is Leavitt's dissection of the "fabled" highway lobby and Members of Congress who support the Federal-aid highway program. Those Members of Congress, working on the Federal-Aid Highway Act of 1970, were, "at this very moment, preparing to extend its life in a form that is not likely to be less lucrative to the builders."

He also commented on his discussion of the freeway battle in the Washington area:

The analysis of Washington's road disputes illuminates some shadows. But Mrs. Leavitt, in common with most local freeway foes, dismisses the very real political threat to our Metro system that was posed by the controversial congressional edict to build the Three Sisters Bridge, among other projects. [Eisen, Jack, "The Freeway Fight," *The Washington Post and Times Herald*, April 20, 1970]

Stephen Green, reviewing the book for the *Star*, agreed with Eisen that her chapter on the highway lobby was "the real blockbuster in this book." Its members had "tried to perpetuate an image of the interstate highway system and its financing trust fund that is akin to motherhood and apple pie":

Many of the allegations made in the book have been well reported in Washington in recent years: urban freeways induce more traffic instead of reducing it; they divide and cripple more cities instead of restoring them to economic health.

Green predicted that when the Highway Trust Fund came up in Congress later in the year during development of the Federal-Aid Highway Act of 1970, “Mrs. Leavitt’s book will provide ammunition for those who oppose the trust fund as it now is constituted:

Her labors may prove more fruitful than those of the city’s louder and more visible freeway opponents, for she has written a damning indictment of the Interstate System and the men responsible for it, particularly that portion which makes up our urban expressways. [Green, Stephen, “Foe of the System Of Building Freeways, *The Sunday Star*, May 31, 1970]

Several other anti-freeway books would be published during the same period, usually citing the Washington freeway battles. For example, Ben Kelley, FHWA’s director of public affairs under Administrator Bridwell, published *The Pavers and the Paved* in 1971 (Donald W. Brown, Inc.) In his insider’s look at the negative world of highways, he wrote:

No catalogue of urban highway grief would be complete without recognition of the District of Columbia’s years-long running war of resistance to freeways – a community-wide movement that has remained alive and vigorous despite heavy-handed maneuvers by road lobbyists and their congressional collaborators to put down more pavement in a city already crisscrossed with more freeway miles per capita and per square mile than any other in the United States, including symbolic Los Angeles. [page 109]

When the city council rejected the Three Sisters Bridge in 1967, the House Public Works Committee reacted “with a mixture of amazement and fury,” turning “with a vengeance to the task of reversing the city’s disposition of its freeway problems.” [page 111]

After quoting extensively from the minority opinion of Representatives McCarthy, Schwegel, and Waldie, Kelley discussed the U.S. Court of Appeals decision on February 15, 1968, enjoining the city for failure to comply with the 1893 District highway law. “The court’s opinion might have been written in vanishing ink so far as the House Public Works Committee majority seemed concerned.” The result was Section 23 of the 1968 Act. Kelley recalled the result from his insider perspective:

Secretary Boyd found himself in a string of meetings with citizen groups opposed to Section 23, as well as with District government officials and members of his own staff who were close to the issue. Finally in mid-August, pressed to give the President a recommendation, he called together his senior staff and top officials from the department’s Federal Highway Administration – including the director of the Bureau of Public Roads [Frank Turner] – for an informal poll. Predictably, the highway agency officials urged against veto, while the Secretary’s policy advisers tended to be for it. It was finally decided that although the District provision was profoundly objectionable, other provisions of the bill, including its broad reform of relocation housing assistance, justified the President’s signature. [pages 114-115]

Kelley’s account ended with the city council’s report to Congress in February 1970.



The Road Gang, which began in 1942 as an informal luncheon forum for the exchange of ideas by public and private executives whose interests were broadly related to highway transportation, invited Leavitt in 1970 to defend her book. *Road Gang Goes for the Gold*, published in 1992 to celebrate the group's 50<sup>th</sup> anniversary. Described the event:

Another "first" was a woman guest speaker, Helen Leavitt, who not only drew a large attendance but sparked some of the liveliest, if not the loudest, discussion in Road Gang experience. In the words of Chairman [Charles W. "Bill"] Day, who even used his horn to help sustain order, the debate was "brisk."

Others remember the meeting as loud, maybe even a bit raucous. [Knight, Don, editor, *Road Gang Goes for the Gold*, A Special Commemorative Newsletter Tribute to the Road Gang, June 25, 1992, page 5]

Despite the Road Gang's views, *Superhighway-Superhoax* has endured as one of the best books of the genre. In 1996, the New York Public Library included Leavitt's book among the Books of the Century. "The book's argument and central paradox, that most superhighways bring increased traffic congestion rather than less, has never been effectively countered." The citation noted some of her criticisms, "most notably, she demonstrates environmental degradation, strangled cities, and ruined public transportation systems." [Diefendorf, Elizabeth, Editor, *The New York Public Library's Books of the Century*, Oxford University Press, 1996, p. 147])

### **Threatening Metro**

Chairman Natcher made his displeasure with the court's ruling known during hearings in April 1970 on the District of Columbia Appropriations Act, 1971. On April 14, Mayor Washington, Deputy Mayor Watt, and other city officials testified before the Natcher Subcommittee on the city's diverse financial needs.

On transportation, Mayor Washington promised that the city would "continue to take important steps forward toward a comprehensive transportation system," including a contribution of \$34.2 million in capital matching funds for the Metro system. "In fiscal 1971, contracts will be let for 16.1 miles of planned subway routes within the District."

As for the city's freeways, he said:

The interstate highway program, which will facilitate the movement of vehicular traffic, will continue to be developed with substantial construction being funded for the Three Sisters Bridge, Potomac River Freeway, the Center Leg Inner-Loop Freeway, the East Leg and Interchange "C." The total District share of this construction costs \$4 million, which will be matched by Federal grants totaling \$38 million. [District of Columbia Appropriations for 1971, Hearings before a Subcommittee of the Committee on Appropriations, Part 1, U.S. House of Representatives, 91<sup>st</sup> Congress, 2<sup>nd</sup> Session, H181-38, page 27]

Congressman Davis asked about the status of the Interstate System. “We keep getting reports in the newspapers of dissension among the officials of the District government and, of course, matters that are pending in the courts.”

Mayor Washington replied that he was not aware of any dissension within the city government. The city was proceeding “with every element that was called for in the 1968 Highway Act.” He asked Hubert B. Pair, principal assistant corporation counsel, to address the court case. Pair said, “We feel we vigorously defended the cases to the point that we prevailed at the trial level.” A three-judge panel reversed the trial court, but the counsel’s office had prepared a petition for a rehearing by the entire court. “We are hoping to overturn the decision of the U.S. Court of Appeals.” Construction, which had not been enjoined, was continuing.

Chairman Natcher questioned whether the city was in compliance with Section 23 of the 1968 Act. Referring to Chairman Fallon’s February 27 letter to President Nixon questioning the city’s compliance, Chairman Natcher told the city officials that he was surprised by the claim the city was in compliance:

I say to you quite frankly as one member of the committee that the District building [sic] is not in compliance with the Highway Act of 1968. That includes the Highway Department of the District of Columbia . . . . That letter has not been contested and that is the law and that is the law under which we intend to operate.

When Mayor Washington said he was relying on the opinion of the office of the corporation counsel, Chairman Natcher pointed out that the chairman of the Public Works Committee and his staff “who know more about this than anyone that I know, say that the District Building is not in compliance. They say that the recommendations from the Department of Highways and Traffic in the District of Columbia are not in compliance.” [pages 103-104]

Chairman Natcher returned to the issue on April 29 when Airis appeared to discuss the Department of Highways and Traffic’s budget. The chairman restated his view that the city needed freeways and a rapid rail transit system “to meet the tremendous day-by-day growth of traffic.” His committee “made every effort” to keep both moving, but had been forced to withhold funds for Metro because of the impasse blocking freeway construction. “After the matter was resolved we did just exactly what we told the House and the people downtown that we would do,” namely release the funds to begin construction of Metro.

President Nixon, Representative Natcher said, had taken a keen interest in the matter:

During the past several months, President Nixon has made every effort to see that this impasse was resolved. I want you to know, Mr. Airis, that he has done everything he told us that he would do. He has made a sincere effort to see that the impasse was resolved. And I say this to you frankly, he is the only President during the last 10 years that has had nerve enough to enter into this matter and try to resolve it. I know what I am talking about, Mr. Airis. I have served with several Presidents and I know the actions of others and I know what he has done. I say to you again, from the standpoint of the best interests of our Capital City, this matter must be resolved.

Chairman Natcher entered into the hearing record a collection of documents covering the attempts to end the impasse in recent years, including the President's letter of August 12, 1969, Chairman Fallon's letter to the President dated February 27, 1970, and his own statement in extended comments to the House.

The chairman said that since the Metro construction funds had been released, "the terms of the Highway Act of 1968 have not been complied with." He said that under no circumstances could he "recommend to this committee that we continue appropriating funds for rapid rail transit construction unless the Highway Act of 1968 is complied with in its entirety."

Since the submission of the reports and the letter to the President, Chairman Fallon and other members of the Public Works Committee had met with Secretary Volpe. "I am reliably informed that as a result of this meeting every effort will now be made to comply with the Highway Act of 1968, and that this will take place before the District budget is approved for fiscal year 1971 by this committee." If so, Chairman Natcher said he would recommend funding for Metro construction. "If not, then I do not intend to recommend construction funds for rapid transit for fiscal year 1971."

Congressman Davis agreed:

I was disappointed, as I am sure you were, to read some of the recent statements that did publicly appear, attributed to the Secretary of Transportation and the officials of the District of Columbia. I think the law is clear and unambiguous. I think the position of this subcommittee is equally clear and unambiguous and we have undertaken to act consistently with the enactments of this Congress. [pages 379-387]

Although the hearings were closed, reporters received transcripts of earlier hearings on April 29, including Chairman Natcher's warning to Mayor Washington about compliance with Section 23 of the 1968 Act. Congressional sources told reporters that Chairman Natcher's comments did not mean the city should ignore the U.S. Court of Appeals' decision on the Three Sisters Bridge project. The chairman was more concerned about the city council's recommendation to convert the Anacostia Freeway to a parkway on the East Leg of the Inner Loop Freeway north of Bladensburg Road and Secretary Volpe's suggestion that the Potomac River Freeway should be built on an elevated structure along the Georgetown waterfront. The Secretary's suggestion reportedly "infuriated" members of the Public Works Committee.

Jack Eisen reported:

As much as anything, however, a Public Works Committee spokesman said, there is concern that the city government is doing as little as it can to abide by the law, and that some officials quietly sympathize with delaying tactics.

The delay was symbolized by the fact that NPS had only recently provided the needed clearance for construction along the Anacostia River shore. [Green, Stephen, "Natcher Threatens New Subway Halt," *The Evening Star*, April 30, 1970; Eisen, Jack, "City Warned Of 2d Metro Fund Cutoff," *The Washington Post and Times Herald*, April 30, 1970]

Learning of the latest threat to Metro funding while the WMATA board was trying to resolve the minority hiring issue, Chairman Yeldell said, "We had no knowledge of this before it appears in the papers." General Graham pointed out that WMATA representatives had received "a fine reception" from Chairman Natcher when they testified.

Board member Gleason said:

I don't know if any organization can stand to be kidnapped time after time. Each crisis just makes the blood pressure rise more frequently and the patient dies. I don't know if transit can survive another crisis.

Vice Chairman Sickles suggested meeting with Chairman Natcher to bolster support for Metro, but General Graham replied that Natcher already knew "about our problems." [Meyer, Eugene L., "Metro, Warned of Fund Cut, 'Can't Survive Another Crisis.'" *The Washington Post and Times Herald*, May 1, 1970]

WMATA appeared before the subcommittee on May 5. Chairman Yeldell submitted a lengthy statement for the record in which he explained WMATA's request for \$34,178,000 to cover District's matching share, complimented the political leadership that resulted in the groundbreaking on December 9, 1969, confirmed the cost estimate of \$2,494,600 as long as Metro stayed on schedule, and assured that the final plan, while complex, was on schedule.

General Graham's statement confirmed the importance of staying on schedule. Despite the delay of 14 months before the groundbreaking ceremony, "we have compressed our construction schedule sufficiently to achieve initial train operations in July of 1973"

Our basic problem was threefold. First, we had to minimize the effect of cost escalation by compressing our schedule. Second, we had to hold the number of contracts in any given time period to the amount which would assure the benefits of contractor competition. Third, we needed to assure the advantages of a stable labor force.

We believe we have accomplished these objectives.

He outlined the work schedule for the 98.7-mile system, concluding:

The final segments will be completed and operational by December 1979 from Chillum to Greenbelt Station; from Silver Spring to Glenmont; from Kenilworth to Addison Road; from telegraph Road to Backlick Road; and along the Franconia Route.

Chairman Natcher was complimentary of the WMATA team:

As you have heard me say, probably on the floor, Mr. Yeldell, the members of this Board, together with the members who occupy staff positions are doing a good job, and I say that to you frankly. You have a lot of good people in this organization, a lot of good people. Mr. Yeldell, I just hope that the future will be such that we will be able to proceed with the rapid transit system.

He did not imply that developments might lead to another threat to the city's Metro matching funds. [Part 2, pages 1010-1026]

Eisen, using *The Perils of Pauline* analogy, wrote that the freeway-subway impasse "has burst back upon the front pages, sending new shock waves through the metropolitan political structure." He repeated Chairman Natcher's warning, but said that this time the chairman had "made clear that he did not really want to use it." Moreover, his ire was not aimed at city officials but at Secretary Volpe, leaving the city "caught helplessly in the middle." This reality explained, Eisen wrote, "the lack of anguished howls from City Hall." The goal was for Secretary Volpe and the city to agree on the East Leg Freeway and the Potomac River Freeway.

The future of the North-Central Freeway was another contentious question. "It was clearly the North Central that Chairman George H. Fallon (d-Md.) . . . had in mind" when he inserted his statement in the *Congressional Record* ("Even the rapid transit system which required such painstaking effort on the part of so many to get under way is subject to delays by the various [freeway] recommendations.")

Chairman Fallon and Chairman Kluczynski were the keys to resolving the issues. Referring to the reports submitted to Congress by Mayor Washington and Secretary Volpe in accordance with the Section 23 deadline, Eisen quoted Chairman Fallon's observation that the two reports were in disagreement with each other and were "radical departures" from Section 23:

These "departures" are what Fallon's ally, Natcher, has undertaken to rectify by invoking the power of the purse, if need be.

Eisen summarized:

One fact is clear: Washington is the nation's outstanding example of blockage of interstate freeways in an urban area, a symbol that heartens road critics and anguishes proponents. [Eisen, Jack, "New Threat Rocks Road Controversy," *The Washington Post and Times Herald*, May 3, 1970]

*Post* editors wondered how Metro became "the king in the decade-old chess game that has gone on over the District of Columbia's highway system." The game was complex, the players changed regularly, and much of it was taking place behind closed doors. If the game did not end soon, one thing was certain:

The king is going to be dead and with the demise of the subway will die the last best chance to make this metropolitan area a decent place to live in the future.

As for Chairman Natcher's threat, "If those funds are withheld, you can kiss the subway system good-bye."

Chairmen Natcher and Fallon did not seem to grasp, the editors wrote, that Metro is not an ordinary public works project:

It has to sell \$880 million in revenue bonds to complete its financing. What investor in his right mind is going to recommend or buy these bonds if the project is turned on and off as part of a political power play?

Congress was at fault, but “the anti-freeway lobby” also deserved some of the blame. Eventually the freeways would be built:

Those who fight against them so adamantly only succeed in depriving the city of a chance to use things like the north central freeway and the northern leg in a way that can help the city’s economic and social development.

Others were at fault as well:

Neither the Mayor nor the City Council has been a tower of strength. The city’s move towards a compromise last winter was made grudgingly, by the best interpretation that can be put on it, and deviously, by the worst. Secretary of Transportation Volpe then stuck in his two cents worth by tacking more ideas on the city’s proposal and sending the Congressmen up the wall in rage.

To further complicate the situation, the District’s freeway program has become the symbol of resistance of cities across the country to the use of freeway construction standards more appropriate in [a] rural area . . . . While it is one thing for the District to be a test case on such a major issue, it is quite another for the subway system to go down the drain while the battle is fought out.

The impasse could be “worked out fairly easily” by negotiation “if the game hadn’t been played out so bitterly for so long”:

It needs action, quickly – and not from men who are acting to please constituencies or pressure groups or to show that they have been right all along, but from men who are acting as responsible citizens trying to solve a difficult problem.

Congressional action to ram freeways through by threatening the subway was “the worst kind of demagoguery,” but the city’s and Secretary Volpe’s actions were “insane” because they “put Congress in the position where it thinks this is the only course of action it has open to justify its past performances.” The editors called for “some sanity and common sense” before the next moves. Otherwise, “the game is likely to end in total disaster.” [“The Game Called Freeways,” *The Washington Post and Times Herald*, May 3, 1970]

*Star* editors saw a way out of the impasse. The city needed to overcome two hurdles. If the good faith efforts to overcome the court challenge failed, the city should hold hearings to dispose of the problem. In addition, the differences between the ideas the city and Secretary Volpe submitted to Congress should be reconciled. This hurdle was more complex than the first one. “The House Public Works Committee, in fact, was sufficiently infuriated by the snarl some weeks ago to lodge a written protest with the President.” Chairman Natcher, while issuing his threat, reported that efforts were underway to work things out. “We trust he is right.”

The region could not afford another subway setback. “And the gravest mistake which Secretary Volpe and Mayor Washington could make would be to ignore the prodding which Natcher is giving them, at this point, in relatively gentle terms.” [“A Word to Wise,” *The Sunday Star*, May 3, 1970]

On May 6, Judge Sirica rejected plaintiffs’ request for a temporary injunction to halt construction of the Three Sisters Bridge. After what the *Post* characterized as “the judge’s rapid-fire rulings,” he cut off Owen’s arguments:

Suddenly, Sirica stopped Owen’s argument to ask whether the civic groups would be able to post a bond in the amount of contracts already let for bridge construction “to protect the government and taxpayers of the District of Columbia.

He concluded that even if he issued the injunction, the plaintiffs would be unable to post the bond, as commonly done. The bond would be an estimated \$1.5 million.

Owen said he would immediately appeal to the U.S. Court of Appeals.

Judge Sirica set June 11 for the start of the trial. [“Judge Refuses to Halt Bridge Construction,” *The Washington Post and Times Herald*, May 7, 1970]

Eisen reported on May 12 that the plaintiffs were seeking to halt construction at least in part on the basis of a deposition that attorney Gerald P. Norton had taken with Charles E. Hall, FHWA’s Division Engineer in the District of Columbia. During an April 28 deposition, Hall said FHWA had not yet approved the design for the bridge, which was being reviewed on orders of Administrator Turner.

Turner, in a March memorandum, had written:

[We are] still concerned that the combination of the adverse geometry of the superstructure, the unconventional design details, the extreme lack of design experience of a structure of this type and the complete absence of this construction experience in this country makes the undertaking extremely hazardous and fraught with danger.

To the best of our knowledge, very little has been accomplished to alleviate this concern.

Hall expressed doubts about whether the graceful, single-span bridge that the Commission of Fine Arts had approved could be built. Instead, he opened a consultant study to display an illustration showing a multi-span design and said that if the design were rejected, the bridge “could look like the pictures we had in this book.”

In a second deposition on May 5, Hall said he understood that Turner was firmly committed to the present design.

Robert Kennan, roads committee chairman of the Committee of 100 on the Federal City, argued that the questions Hall raised about the design were serious enough to justify a halt in construction. John L. Hess of the District’s corporation counsel’s office dismissed plaintiff’s

concern. “Everybody is now agreed, including Mr. Hall, that the bridge approved by the Fine Arts Commission is the one that is going to be built. No question about it.” [Eisen, Jack, “Approved Design of Three Sisters Bridge Is Challenged,” *The Washington Post and Times Herald*, May 12, 1970; quote from Turner memorandum in Green, Stephen, “New 3 Sisters Bridge Design Weighed,” *The Evening Star*, September 2, 1970]

### **Appropriations Action, 1971**

On June 1, the House Committee on Appropriations approved the FY 1971 District of Columbia bill drafted by Chairman Natcher’s subcommittee. The report explained that the committee was “still of the opinion that there is a place for both a freeway system and a rapid rail transit system in our Capital City.” However, freeway construction “must be carried out along with the rapid transit system.” After summarizing the reports submitted in February that contained “certain proposals that are not in compliance with the intent of the law,” the report concluded:

Another impasse has evolved. Until the current impasse on freeway construction is resolved no funds will be recommended for the District’s share of the Washington Metropolitan Area Transit Authority’s fiscal year 1971 construction program.

At the time, the city’s authority to borrow from the U.S. Treasury had expired, requiring congressional action that had not yet occurred. Because the loans were used as an advance on payment for highway projects, the city had not requested appropriations for matching funds for highway development. In the absence of loan authority, the committee recommended appropriating only \$500,000 for construction. It was for the Three Sisters Bridge to “complete the financing of that structure and is available from existing resources.” [District of Columbia Appropriation Bill, 1971, Committee on Appropriations, U.S. House of Representatives, 91<sup>st</sup> Congress, 2d Session, Report No. 91-1135, June 1, 1970, pages 4-5, 17]

WMATA saw the refusal to appropriate the requested \$34.2 million in District matching funds for Metro as a long-term peril if it prevented future contract awards. In the short term, the delay would be less of a problem because construction could continue.

Mayor Washington responded to the report by saying, “I am hopeful that the current impasse can be resolved quickly so that the much-needed subway program can proceed.” General Graham said WMATA had enough funds available to “keep Metro on schedule until the new freeway impasse can be resolved.” He added that the Senate had a pending supplemental appropriations bill that contained \$84 million in Federal funds for Metro. Approval of that bill was “absolutely crucial.”

Secretary Volpe was out of town and could not be reached for comment. Chairman Natcher, asked by Eisen for comment, said, “I have no additional comment other than what’s in the report.” [Eisen, Jack, “House Panel Again Refuses Metro Funds,” *The Washington Post and Times Herald*, June 2, 1970]

On June 4, the *Star* reported that Secretary Volpe had reversed his position on the Potomac River Freeway. In a letter to Chairman Fallon, Secretary Volpe said he now favored building the



freeway in a waterfront tunnel, as anticipated in Section 23 of the 1968 Act, instead of on an elevated structure. The freeway would be an eight-lane split-level facility, with the tunnel carrying the eastbound lanes while westbound traffic used the elevated Whitehurst Freeway:

The eastbound lanes will be built from an expressway stub, now running from 31<sup>st</sup> Street NW to 27<sup>th</sup> and K Streets NW. It will proceed parallel to and just south of the existing Whitehurst Freeway into a more than 4,000-foot-long tunnel starting between 400 and 650 feet west of Wisconsin Avenue.

From beneath the waterfront, the tunnel will continue under the C&O Canal, surfacing on the north side of the canal between Georgetown University and Canal Road. From there it will connect with the eastbound lanes of the Three Sisters Bridge.

From the present Whitehurst Freeway, the westbound lanes will go into a tunnel just west of Key Bridge and run for 1,750 feet to surface north of the C&O Canal. From there it will proceed west past the intersection of Foxhall Road and MacArthur Boulevard to join the westbound lanes of the Three Sisters Bridge.

The *Star* noted that FHWA had favored Secretary Volpe's proposed elevated structure, which in a joint use venture would have a park beneath the freeway. "But plans for redevelopment of the Georgetown waterfront, that include demolition of the Milton Hopfenmaier Co. rendering plant, have hinged on construction of the tunnel."

Secretary Volpe's letter to Chairman Fallon expressed the hope that the "clarification" would help resolve the city's transportation tangle. However, it addressed only one of the issues that Chairman Natcher had cited as the basis for withholding Metro funds. [Green, Stephen, "Volpe Switches on Freeway, Backs Georgetown Tunnel," *The Evening Star*, June 4, 1970]

Chairman Natcher brought the District of Columbia Appropriations Act, 1971, to the House floor on June 4. He explained the committee's support for a balanced transportation system that required construction of freeways at the same time as Metro:

Until the current impasse on freeway construction is resolved no funds will be recommended for the District's share of the Washington Metropolitan Area Transit Authority's fiscal year 1971 construction program. For this reason, Mr. Chairman, we do not recommend at this time the sum of \$34,178,000 for the District's share of the rapid transit construction program costs.

He once again went through the history of efforts to force the District to comply with Section 23, inserting into the record his summary from the April 30 hearing.

In the time since he had last recommended the appropriation of District matching funds for Metro, he said, it was clear "that the terms of the Highway Act of 1968 have not been complied with, and this is the situation we are confronted with today." When the city complies with Section 23 of the 1968 Act, he would recommend the funding.

Virginia's Representative Scott pointed out that his constituents depended on construction of Metro in the city. How, he asked, can the impasse be cleared?

Chairman Natcher again summarized the basis for the impasse, emphasizing that his decision would not affect current construction:

If between now and the time the bill passes the Senate, or at any time the District officials and the Department of Transportation comply with the Highway Act of 1968, I will recommend to the members of our subcommittee, to our Committee on Appropriations and to the full House that we appropriate the \$34,178,000 requested . . . .

But I must say this: As long as there is not compliance with the law passed by this House and the Congress of the United States I will never come to the floor of the House and ask for money to continue construction.

Representative Gude of Maryland said he understood the complexity of the impasse, but added, "I realize that I am one of a very small handful of Congressmen who take exception to a deepseated [sic] feeling in this House that we should not go ahead with funding the transit system unless we have corresponding progress in the expressway system." The freeway system and Metro should each be judged on its own merits. "I do not feel that we should hold one program hostage to the other."

Chairman Natcher simply thanked Representative Gude "for his statement."

Chairman Kluczynski took this opportunity to explain that as chairman of the Subcommittee on Roads, he had included Section 23 in the 1968 Act "to put an end to the years of unnecessary and ridiculous bickering which has gone on in the District of Columbia concerning interstate highway routes for the Nation's Capital." With just a few miles remaining to be built, "It is just intolerable that the city government continues to obstruct and delay and drag its feet on this vital project." He continued:

Where positive action is required all that can be seen is negativeness coupled with a cowering every time a militant voice is raised to object. I read recently that the great Roman statesman and philosopher, Seneca remarked long ago, "that government is ill-conducted, when the mob rules its leader." . . . .

Earlier in the day, Chairman Mahon had said the country must have a National Capital we can be proud of. Chairman Kluczynski said, "We can hardly be proud of unfinished freeways and intolerable congestion which has resulted from a government of indecision."

Representative Broyhill also was concerned about deletion of the Metro funds. "We are all aware of the seriousness of traffic congestion and have agreed to the necessity of a subway system. The more we delay doing something about it, the more it will cost to solve the problem."

Chairman Natcher went through the provisions of Section 23 to demonstrate the city's lack of compliance:

First. Not later than 30 days after enactment of the law, which was signed on August 23, 1968 – almost 2 years ago, work was to be commenced on four specific projects – the Three Sisters Bridge, the Potomac River Freeway, the center leg of the inner loop, and the east leg of the inner loop.

Second. The remainder of the projects would be studied for a period of 18 months and reported back to Congress by February 23, 1970.

With regard to the first step of the act the District government proceeded not only to completely ignore the law but within a period of about 4 months proceeded to remove from the plan three of the four required projects as they were designated by the Congress. Most of the remaining study projects were changed completely from what was indicated in the act.

The District's report to Congress in February, the second step, had been "a warmed over version of the plan which was rejected by the Transportation Planning Board over a year earlier." The Department of Transportation's report to Congress "proposed a still different plan than either that of the District of Columbia or that proposed in the 1968 Act." He continued:

It is my understanding that the Secretary of Transportation has now agreed to conform to the first step of the act but has retained his original position on the study projects.

This appeared to be a reference to Secretary Volpe's support for the tunnel option along the Georgetown waterfront.

We have now reached the point wherein the only thing that has been accomplished since the 1968 Highway Act was passed is to let one small contract on the piers of the Three Sisters Bridge and to begin the design of the Potomac River Freeway. Aside from that all is again in confusion.

In conclusion, he said he would like to recommend "tomorrow, next week, next month" to restore Metro construction funding, but that could happen only when the District and the Department of Transportation are in compliance with Section 23.

Of course, the floor discussion covered many other topics, but in the end, the House passed the bill, absent Metro funding, without a recorded vote. [District of Columbia Appropriations, 1971, *Congressional Record-House*, June 4, 1970, pages 18358-18370]

*Star* editors appreciated the efforts of Representatives Broyhill and Gude, both freeway supporters, to separate the freeway fight from Metro construction. "But what their pleas did reflect was a recognition that the transit program now has reached the critical stage in which a prolonged delay in appropriations could sink the whole business, probably permanently."

The editors could not contest Chairman Natcher's recitation of the history of "broken promises which have left the highway program once again 'in confusion.'" Secretary Volpe and Mayor Washington "should be hammering on Natcher's door in search of an agreement."

In 1969, the impasse had been broken only by President Nixon's intervention. "We see no way out of the present mess short of a repetition of this action, in which a new agreement could be reached in terms of the conditions that exist today." Sadly, Secretary Volpe and Mayor Washington do not seem able, "of their own volition," to reach such an agreement. "But there is no reason to anticipate that they will do so in the absence of a strong push from the boss." ["Those Subway Funds," *The Evening Star*, June 12, 1970]

The Senate Committee on Appropriations approved its bill for the District of Columbia on June 18. Working from the House bill, the Senate committee deleted the \$500,000 appropriated for the Three Sisters Bridge, but recommended appropriating \$34.2 million for Metro construction. Chairman Proxmire realized changes would be a major issue during the House-Senate conference, but said, "It seems to me we have a clear commitment to move ahead with the subway. Once you start work on it, it's bound to be wasteful and increase the cost if you interrupt it." He added, "I think Mr. Natcher and I will be able to arrive at a fair settlement." [District of Columbia Appropriations Bill 1971, Committee on Appropriations, United States Senate, 91<sup>st</sup> Congress, 2d Session, Calendar Nol 939, June 18, 1970; Moore, Irna, "Metro Funds Put Back in Budget," *The Washington Post and Times Herald*, June 18, 1970]

On June 26, Chairman Proxmire brought the District of Columbia Appropriations Act of 1971 to the Senate floor. Referring to the Metro funding, he told his colleagues, "This is the principal difference between the House and the Senate. They did not fund the subway, we did." The Senate approved the bill without discussion of the Metro funding or the freeway impasse. [District of Columbia Appropriations, 1971, *Congressional Record-Senate*, June 26, 1970, pages 21686-21689]

In conference, Representative Natcher prevailed, as explained in the conference report:

The list of projects approved does not include funds for the District's share of the Washington Metropolitan Area Transit Authority's construction program. The managers on the part of the House reiterate their opinion that there is a place for both a freeway system and a rapid rail system in our Capital City. In order to meet the tremendous day-by-day growth of traffic, the freeway program must be carried out along with the rapid transit system. There is no desire on the part of the House managers to halt the subway program and the denial of funds at this time will not stop construction already underway and the managers are determined to do everything they can to enable the Authority to maintain its construction schedule and the integrity of the financial plan. When the current impasse on highway construction in the District of Columbia is resolved, every consideration will be given to a supplemental request for the District's share of the cost of the Washington Metropolitan Area Transit Authority's fiscal year 1971 construction program. [District of Columbia Appropriations, 1971, Conference Report, U.S. House of Representatives, 91<sup>st</sup> Congress, 2d Session, Report No. 91-1267, June 30, 1970, page 4]

According to the *Star*, the phrase beginning "are determined to do everything" was included in the report language at Chairman Proxmire's request. He told reporters

Conferees also retained the appropriation of \$500,000 for the Three Sisters Bridge.

Chairman Proxmire told reporters that Senate conferees understood Chairman Natcher's view on the importance of developing Metro and freeways at the same time. "Proxmire said the Senate conferees felt that unless they took the position they did, a bill might not have been reported out until fall. [James, Betty, "D.C. Budget Cleared by House," *The Evening Star*, July 1, 1970]

On the House floor, Chairman Natcher explained the decision by conferees to remove the Senate's appropriation for Metro. Referring to the language quoted above, he said, "It clearly shows that the other body and this body, and especially the Committee on Appropriations in the House, believes that we must have both a rapid transit system and a freeway system in our Capital City." On June 30, the House approved the conference report without further discussion of the subway funding. [Conference Report on H.R. 17868, District of Columbia Appropriations, 1971, *Congressional Record-House*, June 30, 1970, pages 22158-22156]

Senator Proxmire introduced the conference report in the Senate on July 1. After the report was read into the record, Senator Tydings said he opposed the report because it denied funds for Metro construction. In so doing, he said, "it insults the citizens of the sovereign States of Maryland and Virginia and the District of Columbia; and because it represents an unprecedented and intolerable interference in the local affairs of these States."

He recognized that Senator Proxmire had tried his best to retain the funds, and that the House conferees had forced the deletion:

Mr. President, speaking for the government and the citizens of Maryland, I deeply resent this continued interference with our purely local questions. Nowhere else in this Nation has Congress so abused local governments than as in this case of stalling subway construction for the Washington Metropolitan area. Never has Congress blackjacked local governments as it has attempted to in this case.

What business is it of Congress where Maryland, the District of Columbia, and Virginia decide to put their highways and subways? What right has Congress to jeopardize the Metro program? By what authority does Congress tell the people of Maryland to go without their vital Metro mass transit system because of a highway mess in the District of Columbia?

He hoped the House would "reconsider its strategy of holding the subway hostage for construction of a few particular, highly controversial freeway routes." He did not intend "to stand idly by" in the face of this "gross insult to the people and governments of this area." He would not try to block the pending bill, but if the impasse were not resolved by the fall, he would have to "recommend that we amend this highway financing authority to make it clear that the Metro and the freeway program must be constructed together; that one will not be held hostage for the other; and that funds for the Metro system will be appropriated together with funds for freeway construction" to free both systems "to proceed in accordance with the desires of the people and governments of Maryland, Virginia, and the District of Columbia." He introduced

letters, resolutions, and statements from Maryland State and local officials in support of breaking the impasse holding up Metro funding.

Several Senators, knowing the conference report would be approved without a recorded vote, voiced that agreement with Senator Tydings. Senator Spong and Byrd of Virginia and Senators Eagleton and Clifford Case applauded the Tydings comments.

Senator Proxmire responded that “I agree with virtually everything he has said in his statement. I agree enthusiastically.” He explained:

Again and again in the conference I brought up the point that while there had been some reluctance on my part last year to fund the subway because of the inflationary tendency involved in starting the biggest construction project in the history of the country, it would be enormously expensive to halt it. And for that reason they agreed. And they realize that it would be a disaster if we had to stop construction on it.

We have to be realistic and realize that they can always stop anything we do over here. But there is every likelihood and every expectation that we will be able to resolve that impasse by mid-September.

House conferees were “adamant in reasserting the position advanced by Chairman Natcher.” The Senate conferees countered that maintaining the continuity of Metro construction was vital and that “it was both unreasonable and unrealistic to delay construction during the critical first phase of the project’s construction schedule.” Given the House insistence, the Senate conferees either had to yield or face the prospect of “ending up in a stalemate.”

The Senate approved the conference report with a recorded vote. [District of Columbia Appropriations Bill, 1971-Conference Report, *Congressional Record-Senate*, July 1, 1970, pages 22488-22495]

President Nixon signed the legislation on July 16, 1970 (P.L. 91-337).

### **Volpe Before the Subcommittee on Roads**

On June 10, 1970, Secretary Volpe appeared before the House Subcommittee on Roads to testify on plans for the Federal-Aid Highway Act of 1970. During the question period after Secretary Volpe testified about the needed 2-year reauthorization bill, Chairman Kluczynski asked about a letter the Secretary had sent to Chairman Fallon on May 4. (He sent a similar letter to Chairman Randolph.) It stated:

In the review of the individual State estimates by the Bureau of Public Roads there were identified several system segments on which question exists as to whether the highway can be built. In some cities the responsible officials have declared the highway is not wanted and will not be constructed. In certain instances the Governors have made similar declarations. The cost of completion reported for some sections is so great as to warrant bringing to the attention of the congressional committee.

The letter listed 13 areas with controversial Interstates totaling \$3.9 billion. The areas included Baltimore, Boston, Chicago, Cleveland, Hartford, New York City, Philadelphia, Providence, Seattle, Shreveport, and the District of Columbia. The list also included I-93 through Franconia Notch in New Hampshire and the adjoining segment in Vermont. Secretary Volpe explained that the list provided to Chairman Fallon included “projects on which there has been little or no progress in recent years.” He added:

They cannot be completed if we continue to procrastinate, as is the case in some of the projects, and defer decisions which we believe must be made in the very near future if we are to complete the Interstate Highway System in the time frame which we have been talking about.

The implication was that while the Department of Transportation had included the projects in the latest ICE, Congress may wish to consider removing them. None were “completely essential to an integrated national system.”

Chairman Kluczynski was particularly concerned because the list included the Crosstown Expressway in his hometown of Chicago, a freeway the city and Governor wished to complete. Similarly, Chairman Fallon was concerned about routes in his hometown of Baltimore.

Chairman Kluczynski noted, however, that the list included proposed freeways in the District of Columbia. The letter estimated that completing the District segments (Three Sisters Bridge, North-Central Freeway, Potomac River Freeway, the North and South Legs of the Inner Loop Freeway, and the East Leg, north of Bladensburg Road) would cost \$650 million from the Highway Trust Fund. If these and other controversial routes were not going to be built, or indefinitely delayed, Secretary Volpe thought the apportionment factor resulting from the ICE should be recalculated with these costs deleted. [“Federal-Aid Highway Act-1970,” Hearings, Subcommittee on Roads, Committee on Public Works, U.S. House of Representatives, 91<sup>st</sup> Congress, 2<sup>nd</sup> Session, Report 91-35, pages 954-956; Green, Stephen, “Volpe Casts Doubt on Freeway Future,” *The Evening Star*, June 11, 1970; Secretary Volpe’s letter appears on pages 1038-1039 of the hearing record.]

(Helen Leavitt appeared before the subcommittee on May 12 to testify against the highway program and the Highway Trust Fund. She also opposed a Transit Trust Fund because of her view that transportation decisions should be based on needs, not funding source.

(Representative Harsha questioned her qualifications. He had a copy of her book, which he said provided an incorrect name of his law firm. He asked if she drove an automobile. “Yes,” she answered, “occasionally.” He told her, “Then you contribute to all this pollution you are complaining about.”

(Who supported her study of highway programs? She did not understand, replying, “Who, if any? My husband.” He clarified that he was asking if she received money from any foundations. No, she had not, although she received an advance of \$2,000 from Doubleday.

(As for her criticism of the safety record on the Nation's highways, he said, "taking your suggestion to maybe the ridiculous point, if we did away with all highways, we would not have any accidents." She replied, "Well, we would not have any automobile accidents." He concluded, "Okay. That is all I have."

(Chairman Kluczynski admitted he did not have a copy of her book but would get a copy and read as much as he could before the next day's hearing. "This is one time Big Klu is happy he is not a lawyer, because you would have me quoted in that book of yours, too. [Laughter]" He said, "I admire you for your courage, fighting spirit, and it has been a pleasure to have you before the committee." If she had any more testimony, he encouraged her to send it in. [pages 411-416]

(If he did read *Superhighway-Superhoax*, Chairman Kluczynski would have found that he was mentioned and quoted several times, initially via a quote defending the Public Works Committee's wisdom in promoting the Interstate System in 1955-1956:

When the pressure was at its heaviest, one of the committee members made this remark, "We have heard from everyone except the public." No one can speak adequately for the public except their representatives in Congress. The public has no organized lobby or pressure groups and I am confident that we will give the public proper representation in the consideration of . . . [the proposed highway bill]. [Leavitt, page 50]

(She referred to or quoted him several more times, including his comment at the end of the December 1968 hearings on District freeway problems:

We want that bridge," said Subcommittee Chairman Kluczynski . . . . Serving notice that he expected Boyd to approve the new Potomac bridge by the end of the month, the chairman added, "If he doesn't act, the Congress will. That's a mandate." [page 98]

(In summing up the views of Chairman Kluczynski and his Public Works colleagues, Leavitt wrote, "It would be difficult to describe Kluczynski's committee as sympathetic to *any* criticism of freeways." [page 218, italics in original.]

## **On Trial**

As directed by the three-judge panel of the U.S. Court of Appeal, Judge Sirica convened a trial to consider the Three Sisters Bridge lawsuit on June 8.

In an opening statement, Owen argued that the city had violated planning requirements before beginning construction. He also questioned the design based on the deposition by FHWA's Hall. "The fact is that the District is proceeding with the construction of a bridge which may or may not fall down . . . nobody knows for sure." Construction must be stopped until the city held the required design and location hearings. He said the District Highway Department had signed a certificate approving the location belatedly in "an effort to paper over the crack in the government's case." He added that the city had approved the bridge only after "enormous political pressure" related to Metro funding and, therefore, should be ruled invalid.



John R. Hess, representing the District of Columbia, and McKevitt, representing Secretary Volpe on behalf of the Justice Department, said they would demonstrate that project development complied with applicable laws and regulations.

After the opening statements, Judge Sirica agreed that, “This is going to be a very crucial question, a very important question,” referring to the question of political pressures. [“3 Sisters Bridge Trial Opens With Accusations,” *The Evening Star*, June 8, 1970; “Three Sisters Trial To Include Politics,” *The Washington Post and Times Herald*, June 9, 1970]

The entire second day of the trial consisted of Owen questioning two FHWA officials, Associate Administrator for Planning E. H. “Ted” Holmes, and Rex I. Wells of the Office of Environmental Policy. They had prepared a memorandum recommending approval of the span. That memorandum was given to Secretary Volpe, who approved it in October 1969, about 2 months after Secretary Volpe restored I-266 to the Interstate System. Owen was attempting to demonstrate that the timing was intended to “paper over” legal defects in the approval process.

On June 10, Judge Sirica asked Hess and McKevitt to provide copies of any documents reflecting congressional pressure of Secretary Volpe. He rejected a motion by Owen to subpoena the documents and questioned whether documents could prove that Secretary Volpe was reacting only to congressional pressure when he restored I-266 to the Interstate System.

Owen referred to Secretary Volpe’s deposition in the case, during which he acknowledged talking with Chairmen Natcher, Fallon, and Kluczynski, as well as Representative Cramer about the bridge.

Former Administrator Bridwell testified during the day that his decision to remove the bridge from the Interstate System was not a result of political pressure. Eisen summarized:

He said that he gave “very much” weight to the Highway Act of 1968, in which Congress required building the bridge, and even sought a legal opinion on “the flexibility I had within the statutory language.”

Bridwell said he deleted the bridge at Mayor Walter E. Washington’s request after the National Capital Planning Commission and the City Council adopted a highway plan omitting it.

“It only came to me a few days before leaving office,” he explained, adding. “I acted promptly . . . .” [Eisen, Jack, “Hill Pressure On 3 Sisters Questioned,” *The Washington Post and Times Herald*, June 11, 1970]

On June 11, McKevitt told the court that no documents existed showing political pressure on Secretary Volpe to restore the bridge to the Interstate System. In view of former Administrator Bridwell’s testimony, Judge Sirica called for documents reflecting earlier political pressure by bridge opponents to kill the project during the 6 months between enactment of the 1968 Act and Bridwell’s departure from FHWA.

According to Eisen, the trial “moved slowly as lawyers for the bridge opponents methodically submitted evidence and questioned witnesses in an attempt to prove that federal and District of Columbia officials took shortcuts in required hearings and administrative procedures”:

Charles E. Hall, division engineer for the U.S. Bureau of Public Roads, acknowledged that the bridge now in preliminary construction stages is not the same in proposed design or precise location as the one considered at a public hearing in 1964.

He also testified that he still is not sure the bridge as designed, using a single span of long reinforced concrete, can be built. But he said a bridge of similar design could be built of steel. Whatever is built, he insisted, would be safe. [Eisen, Jack, “Judge Seeks Files on Cancellation of 3 Sisters,” *The Washington Post and Times Herald*, June 12, 1970]

Secretary Volpe took the witness stand for 5 hours on Friday, June 12. He testified that he approached the future of the bridge “with a completely open mind.” He ordered new department of transportation studies of the need for the bridge and its potential adverse impacts. He said that he met with bridge supporters and opponents and that he had considered their views. He was contacted by Chairman Natcher and other congressional leaders. However, he declared, “They know I don’t bend easily.”

In the end, he concluded that the Three Sisters Bridge was needed and that it was essential to the National System of Interstate and Defense Highways. He denied that he had approved the bridge to secure release of the Metro construction funds.

Owen noted that Secretary Volpe’s assertion that the bridge was essential to the Interstate System contradicted his May 4 letter to Chairmen Fallon and Randolph asserting that urban freeways were not needed for the national system although they may be of local importance. Eisen reported, “Questions by Roberts B. Owen . . . failed to resolve the seeming contradiction.” [Eisen, Jack, “Volpe Denies Hill Pressure On 3Sisters,” *The Washington Post and Times Herald*, June 13, 1970; Green, Stephen, “Three Sisters Bridge Vital, Volpe Testifies,” *The Evening Star*, June 13, 1970]

The following Monday, June 15, Administrator Turner told the court that politics and pressure did not play a role in his decision to restore I-266 to the Interstate System. He acted on the merits of the bridge. He had always favored the bridge project, he said, and believed it was needed for traffic relief.

To make their case, Owen and Norton traced the events leading to construction of the Three Sisters Bridge. Bridwell, in one of his last acts, removed I-266 from the Interstate System. Chairman Natcher warned that he would withhold the District’s matching funds for Metro if the city and Department of Transportation did not comply with Section 23. On August 9, the city council agreed to build the bridge. On August 11, Secretary Volpe ordered Turner to put I-266 back on the Interstate System. Turner did so the following day. The same day, Chairman Natcher made clear that his decision depended on actual construction, not promises. President Nixon’s August 12 letter to Chairman Natcher summarized the recent steps in an effort to convince Chairman Natcher to release the funds. “I trust these actions fulfill the criteria that you

set forth.” Once ground was broken on the bridge project, Chairman Natcher released the funds, allowing for the Metro groundbreaking ceremony.

Norton, seeking to have President Nixon’s letter entered into evidence over government objections, said, the letter was “the clearest evidence of the linkage between these two actions [bridge construction leading to subway funds] that there could be.” Judge Sirica admitted the letter in evidence. [Eisen, Jack, “Nixon Letter Cited as Evidence of Pressure to Build Three Sisters,” *The Washington Post and Times Herald*, June 16, 1970]

Director Airis testified in the trial on June 16. He did not recall any pressure to expedite construction of the bridge. He said the implication was that there is something wrong with speeding up the job. “That has always been my goal . . . . I try to do what is in the public interest and is proper.” He added, “All kinds of people give me advice . . . but when something goes wrong, there is the damndest scampering for cover that you ever saw . . . but I can’t dodge.”

He acknowledged that he sent progress reports to Chairman Natcher. Norton showed Airis transcripts of his appearances before Chairman Natcher’s subcommittee during which the freeway-subway impasse was discussed. Airis, however, said he could not recall discussing the political link between the modes.

Norton also asked about a September 2 letter from Airis’s deputy, Gerald I. Sawyer, to FHWA Division Engineer Hall, reading in part, “This will confirm our mutual agreement in the project. This action was taken due to urgency in getting the contract under way.” The copy in Norton’s hand had Hall’s initials and Hall’s notation: “This was to provide a two-week [contracting] period because of the urgency of starting construction at the behest of Congress and the need of D.C. for [Metro] construction money.” Asked about this exchange, Airis replied, “I have no idea . . . I don’t know what he’s referring to.”

Airis returned to the stand the following day, June 18. He testified that he had adhered to all requirements for public hearings and had considered possible social and economic impacts prior to approval. He said he had always acted in “a meticulous manner” in carrying out project development.

Judge Sirica recessed early for the week, at plaintiffs’ request, until Monday, June 22. [Eisen, Jack, “Outside Pressure on Bridge Denied by D.C. Road Chief,” *The Washington Post and Times Herald*, June 17, 1970; “Bridge Plan Legal, Airis Tells Court,” *The Washington Post and Times Herald*, June 19, 1970]

The trial lasted 11 days. As Professor Schrag explained, Owen had a unique strategy:

He had learned that a completed Three Sisters Bridge, with its approaches, would block Sirica’s own commute down MacArthur Boulevard. He could hardly make that argument in open court, so instead he simply laid out the maps, saying, “Judge, I think you need to understand this.” One of the government lawyers broke in, saying, “Ha, ha, ha. Judge, I see what he’s trying to do. He’s trying to persuade you that you will not be able to drive to work if the bridge is built.” Sirica looked stunned, then announced a twenty-minute

recess, during which he scrutinized the maps in the privacy of his chambers. Returning to the courtroom, the judge was much more sympathetic to the plaintiffs . . . . [Schrag, pages 136]

The final day of the trial was June 24. The key issue had been whether Secretary Volpe, Director Airis, and others had skirted statutory and regulatory requirements in moving ahead with the bridge to obtain Metro construction funds that Chairman Natcher had bottled up. At one point in the trial, Judge Sirica had said the issue was not whether political pressure had been applied, but whether the pressure was improper.

With the trial nearly over, Owen said he would ask for a preliminary injunction on the grounds that the safety of the bridge design had not been established. Jack Eisen reported that Judge Sirica said that the legal issues involved were complex and confusing, calling the case “highly emotional . . . on both sides.” Eisen continued, “Sirica, in an informal reply from the bench not included in the trial transcript, said: ‘I’m not going to act on any injunction in this case until I decide it . . . . I’m going to decide it at one time.’” [Eisen, Jack, “Bridge Work Halt Refused,” *The Washington Post and Times Herald*, June 24, 1970]

On August 3, Judge Sirica announced his decision. He did not question the legality of the bridge, which Congress had ordered to construction. “It is not for this court, or for any court to decide whether a bridge across the Potomac in the vicinity of Three Sisters Island is needed, or if the bridge as presently planned is a worthwhile project . . . .” The court’s role was limited to determining if all legal provisions had been followed.

As for political pressure, he found that plaintiffs had not demonstrated “that the actions of Mr. Natcher or any other individuals were in any way dishonest, illegal or unusual under the circumstances . . . . But if these actions had the effect of causing officials to disregard obligations imposed on them by statute, then this court must halt construction of the bridge until . . . statutory obligations [have been met].”

He concluded that Secretary Volpe had approved the bridge “on the merits of the project and not solely on extraneous political pressures.” Moreover, the city and Secretary Volpe had complied with Section 4(f) and other issues plaintiffs had raised, but with one exception. He found that city officials had overlooked the design hearing and acted too quickly in hopes of freeing funds for subway construction:

The court finds that the present design of the bridge is so substantially different from that proposed in 1964 that the public should be given an opportunity to present their views on the project as presently planned.

Last but not least, the cost of the present project is estimated at \$20 million as compared with an estimate of \$6 million in 1964.

He also ruled that no Federal-aid highway funds could be used for preliminary construction work on the bridge until tests took place to determine whether the design was structurally sound.

District officials indicated they were considering an appeal of the ruling; some said they would move fast to an appeal.

Eisen noted that the decision, while based on procedural issues, was a major victory for project opponents. ECTC's Abbott said that the lawsuit had been helpful because opponents "have gained valuable time to marshal their forces and to move on . . . the battle against air pollution."

[Eisen, Jack, "Judge Delays Construction of 3 Sisters," *The Washington Post and Times Herald*, August 4, 1970; Green, Stephen, and Hirzel, Donald, "D.C. Aides Indicate They'll Appeal Halt to 3 Sisters Span," *The Evening Star*, August 4, 1970]

The *Star* said of the decision that another "knot has been added to the District's transportation tangle." Nevertheless, the editors hoped "that the legal twists can be unwound this year and that neither the freeway nor subway projects will be thwarted." The call for public hearings on the bridge project "does not raise an insuperable barrier," but it would delay construction and "that is distressing."

The editors were encouraged that Judge Sirica had not ruled on the merits of the bridge or challenged Section 23 of the Federal-Aid Highway Act of 1968. Section 23's "nevertheless" phrase was "a stern command that has been tortuously circumnavigated in the drawn-out legal hassle over the project."

Regardless, the editors hoped that Chairman Natcher would note that "Judge Sirica is not attempting to foreclose the Three Sisters span, and will move to prevent the Metro from grinding to a halt in its infancy":

He and his committee should take into account that District officials and the Nixon administration both have striven in the best of faith to break the bridge-freeway impasse. The new Potomac crossing, the expressways, the subway are all vital components of a balanced system that is needed to rescue the Nation's Capital from traffic chaos. One component shouldn't be scuttled because another has suffered a temporary setback. ["Three Sisters Delay," *The Evening Star*, August 5, 1970]

After attorneys for the plaintiffs and defendants could not agree on the terms of an injunction, Judge Sirica wrote it himself on August 7. When the city asked for permission to complete the pier contract, Owen pointed out that the U.S. Court of Appeals had ruled that work must be halted unless Judge Sirica found that all legal requirements had been satisfied, and he had not done so. Judge Sirica signed the injunction halting work on the bridge, but included a phrase delaying the effect of the injunction for 20 days to give the city time to appeal regarding the existing contract. ["Bridge Injunction Delayed 20 Days For Appeal by D.C.," *The Evening Star*, August 8, 1970]

After the hearing, Airis told reporters that a 6-month delay in the contract would add \$384,000 to the cost of the bridge; a year delay, \$650,000. The city would reimburse the contractor for expenses at the bridge site. [Eisen, Jack, "Bridge Project Halted—Court Orders Three Sisters

Design Hearing,” *The Washington Post*, August 8, 1970; “Bridge Injunction Delayed 20 Days For Appeal By D.C.,” *The Evening Star*, August 8, 1970]

When the 20 days expired, the city was still deciding on an appeal. The city halted construction of the Three Sisters Bridge on August 27 in compliance with the injunction. Workers left behind two excavation holes they had drilled in the rock bed for support piers for the bridge. [“Work Stops on 3 Sisters Bridge Job,” *The Washington Post and Times Herald*, August 28, 1970; Green, Stephen, “Work Halting on 3 Sisters Bridge Today,” *The Evening Star*, August 27, 1970]

The Justice Department and the District’s corporation counsel advised the city to appeal Judge Sirica’s ruling, but on August 28, Mayor Washington and Secretary Volpe announced they would not do so. Although the decision was in contrast to President Nixon’s assurance to Chairman Natcher that court challenges would be fought vigorously, they concluded that complying with the Judge’s condition was the “most expeditious” way to get back to construction:

Officials said that by going ahead with hearings now, the city and DOT believe they will show Rep. William N. Natcher, D-Ky., that they are attempting to follow his wishes in building the bridge that is opposed by many individuals and civic groups.

City officials said they would let the Department of Transportation handle sensitive negotiations with Congress on how the decision to hold the hearing would affect Metro funding. Reporters called Administrator Turner, who had been designated to negotiate with Chairman Natcher. Turner said, I tried to call him but couldn’t reach him. “I don’t know what his reaction was.” Turner added, “It was the mayor’s decision to go ahead.”

Mayor Washington and Secretary Volpe announced that a hearing on design of the Three Sisters Bridge had been tentatively scheduled for November 17. The goal was “early completion of the Three Sisters Bridge.”

Kennan, speaking for plaintiffs, said they would appeal Judge Sirica’s August 3 ruling.

[Green, Stephen, “November Hearing Set on Three Sisters Bridge,” *The Evening Star*, August 19, 1970; Meyer, Eugene L., “No Appeal Planned On Bridge,” *The Washington Post and Times Herald*, August 29, 1970]

Robert L. Asher of the *Post* editorial page staff, published a lengthy article about the history of the Three Sisters Bridge on August 22, 1970. He began:

For something like 13 years, it has been possible in this town to say two words that can stop, start or totally destroy a conversation about local affairs: “Three Sisters” . . . . For when you see “Three Sisters” in the page one headlines, it refers to a bridge that one cannot see but which one can feel very strongly about. And its implications touch politics, home rule, money, planning, conservation, freeways, subways, housing and Presidents of the United States – among other things.

Asher traced the history of the bridge from the Mass Transportation Survey of 1959 through Judge Sirica’s injunction. After that decision, “Bridge foes and anti-freeway forces cheered,

vowing to renew their battle with vigor – and that’s where Three Sisters sits today, with some early construction equipment idling out there on the old rocks.”

He also pointed out that the North-Central Freeway had seemingly been put on a back burner:

That freeway, once planned through the predominantly white Wisconsin Avenue corridor, had been shifted on the drawing board to a mostly black area of Northeast Washington, running along the B&O railroad tracks through the Brookland-Catholic University area out to Silver Spring.

Leaders of ECTC led the fight against the freeway because they saw it “as destroying communities, removing houses, encouraging more cars, polluting the air and necessitating still more land clearance to park a new onslaught of autos.” They also “decried the action of Congress in doing unto a voteless city what a voteless city was legally powerless to undo: set a local policy and make it stick.”

At least Section 23 of the 1968 Act had called for a study of the corridor, not its immediate construction. Now, in the wake of Judge Sirica’s injunction, the North-Central Freeway was “something that Congress has not forgotten but that city officials would like to.” Congress could insist on its construction, as it did the bridge, whether city officials want to build it or not. Once again, however, the “subway is in new jeopardy with the old Natcher warning . . . . And again, the Metro faces serious construction troubles. And the bleat goes on.”

The White House, Asher wrote, was well aware of the situation “and of the need to do something very soon.” In that regard, he wrote:

There are rumors that (1) the White House will simply announce to Natcher, the city and everybody else that the North Central Freeway is going to be built; (2) that the 1970 Highway Act will emerge with language geared to accelerate the bridge, the freeway and any other problems that the public works committees see in their way; and (3) that the makeup of the city council may in time be changed, by moving some members into judgeships and replacing others when their terms expire.

Yet in this apparently endless, multimasterminded [sic], emotional set of developments over the years, rumors – like real reports – tend to be shortlived and shaky. In this newspaper’s library of clippings, for example, there is one dated Nov. 8, 1967, that begins: “The Three Sisters Bridge is Out.” An astute library assistant has added a succinct commentary in large, red letters all across the item: “DO NOT USE.” [Asher, Robert L., “The Three Sisters—and How They Grew,” *The Washington Post and Times Herald*, August 22, 1970]

### **The Road To Somewhere**

In November 1968, the *Star* reported that a few frustrated motorists, tired of “double crossing,” were using the so-called “road to nowhere” – the unpaved extension of the George Washington Memorial Parkway from the District line to Canal Road at Chain Bridge. NPS refused to pave the road until the District decided on the traffic network around Key Bridge:

Some time ago, some brave souls decided to just drive on the dirt and cinder roadway between the District line and Canal Road, taking a chance they will not be stranded. And since the impasse over completing the road still exists, they are still [driving] over the road in unfinished form.

The dirt road is very dangerous in wet weather, of course, and the deep potholes and tire marks give evidence of many stuck cars.

The report described what city-bound motorists experienced after reaching the District line:

After driving for about a mile after the pavement ends, the motorists come up a slight hill and have to wait for an opening in the stream of cars on Canal Road. Then they have to gun their motors and dart across to continue east on Canal Road NW.

Heading home in the evening, the motorists have little danger from the traffic because they just keep going west at the entrance to Chain Bridge, instead of turning south with the normal stream of traffic.

Commuters using the road were greeted by two signs. One read: "Rough Road, Proceed at Own Risk." The other read, "No Through Traffic, 7-9 a.m." ["It's a Rough Road, But Many Take It," *The Sunday Star*, November 3, 1968]

To dramatize the need to complete the parkway, Representative Gude joined officials of the Washington Aqueducts Division of the U.S. Army Corps of Engineers on September 11, 1968, in "an eels-eye tour" of the conduits under MacArthur Boulevard. "We are having this tour," he said, "because we just have to keep hammering away at the need to get the traffic off the conduit." Officials came equipped with hip boots and long rain slickers for the visitors.

Once in the 9-foot conduit, the visitors walked through about 6 inches of murky, muddy water and a slippery surface. Using his flashlight, Representative Gude pointed at crevices in the ceiling. "These pieces of stone are about to fall." He poked them with a ruler and hunks fell.

Colonel William J. Love said, "Traffic on the surface has caused the top to deteriorate and settle so that now it is only about 8 feet 7 inches in some places." Daniel W. Watt, chief of the Aqueduct Division, told the Congressman that a new road had been built to route traffic away from the most seriously damaged portion. [Christmas, Anne, "Guide Leads Tunnel Tour," *The Evening Star*, December 12, 1968]

The problem had persisted for several years, but an end came in view less than a year later when NPS Director Hartzog and Director Airis of the District Highway Department reached agreement on a solution. On August 19, 1969, Airis told reporters that he had been reluctant to proceed given the uncertainty of the location of the Three Sisters Bridge, Potomac River Freeway, and Palisades Parkway. The agreement became possible when the city council agreed to proceed with construction in accordance with Section 23 of the Federal-Aid Highway Act of 1968.

According to the *Star*:



Only a short distance from the unpaved section Chain Bridge empties Virginia traffic onto Canal Road which runs for three lanes between the bridge and Arizona Avenue. Two lanes are used for District-bound traffic in the morning and two lanes for traffic leaving the city in the afternoon.

Under the agreement between the city and the Park Service, a traffic light will be placed at Canal Road and Chain Bridge.

NPS expected the paving to be completed early in 1970 at an estimated cost of \$100,000, but no one could be certain how much traffic would use the paved parkway segment. Airis said, "We have to be careful that the parkway does not remain the only limited access road to the District from that part of Maryland."

At that point, about 200 motorists a day were taking the risk of using the unpaved roadway. The *Post* reported:

The rutted gravel road to Canal Road is used by some motorists except during the morning rush hour, when it is closed. Most traffic switches over to MacArthur Boulevard at a temporary ramp near the old Glen Echo amusement park.

Closing the "road to nowhere" promised some improvement, as a *Post* columnist explained, but was only a step to a completed network:

When the quarter-mile missing link has been added, this limited-access parkway will carry a heavy stream of traffic between the beltway and Georgetown. Full usefulness of the route will await, however, construction of the Palisades Parkway to carry traffic through Georgetown and into the downtown area. If the Three Sisters bridge controversy has at last come to an end, the construction of the Palisades Parkway and completion of Maryland's connecting Memorial Parkway (some of which is now only two lanes) should be among the first fruits of settlement.

[Green, Stephen, "Bids Sought to Link Parkway to D.C.," *The Evening Star*, August 20, 1969; Eisen, Jack, "Park Service To Close Gap In Parkway," *The Washington Post and Times Herald*, August 21, 1969; Around Town, *The Washington Post and Times Herald*, August 25, 1969]

On October 22, Representative Gude announced that NPS had awarded the \$98,000 contract for the paving. Work was to begin on November 17, with construction expected to take 3 months. ["Contract Let In Last Link Of Parkway," *The Washington Post and Times Herald*, October 23, 1969; "Work Slated To Pave Link Of Parkway," *The Washington Post and Times Herald*, November 13, 1969]

The paving took longer than expected, but at 9:30 on June 16, 1970, Representative Gude cut a ribbon and lead a caravan of cars into the city. The opening was expected to reduce traffic on MacArthur Boulevard, a long-sought goal of the U.S. Army Corps of Engineers that was still concerned about the conduit under the pavement. The newly paved roadway also was expected to reduce traffic on the Virginia section of the George Washington Memorial Parkway with the end of double crossing by Maryland residents bound to or from the District of Columbia.

[Hebald, Anne, "GW Parkway Is Completed, Last Section Paved to D.C.," *The Washington Post and Times Herald*, June 16, 1970]

June 17 was the first day that morning commuters had the full use of the road, but as the *Star* put it:

Motorists on the old "road to nowhere" this morning at last found themselves going somewhere – but very, very slowly.

By 8 a.m., traffic on the parkway had backed up a mile:

Angry drivers had to wait nearly 15 minutes before they were able to go through a new traffic light at Chain Bridge and Canal Road.

Chain Bridge motorists, who usually have a clear shot across the Potomac River, found their progress slowed to a crawl, as, for the first time, they had competition for Canal Road from the parkway motorists . . . .

"It's just not going to work," said Officer A. D. Kidwell of the Park Police. He could tell from first-hand experience since he rapidly was becoming the most unpopular man at the intersection.

Working the traffic light manually, Kidwell kept pushing a little brown button that changed the light from green to yellow to red and back again. All it brought him was verbal abuse from motorists who didn't make it through.

"Give us a break!" shouted one driver who at last managed to go on Canal Road from the parkway. ["Road Goes Somewhere—But at a Snail's Pace," *The Evening Star*, June 17, 1970]

Evening flow out of the city on the former "road to nowhere" went smoothly because motorists could turn onto the paved parkway without crossing a line of traffic.

By the end of June, the District Department of Highways and Traffic made some adjustments to operating rules. Left turns were prohibited from Arizona Avenue, NW., to inbound Canal Road between 7 and 9:30 a.m., Monday through Friday. The left turn also was prohibited from 4 to 6:30 p.m. because Canal Road was made one-way outbound from Foxhall Road to Arizona Avenue. Further, the newly paved segment was made a one-way road outbound during the evening peak period. Traffic moving from Montgomery County into the city would have to use alternative routes. ["Rules Revised To East Traffic," *The Evening Star*, June 25, 1970; "One-Way Rules Set For Section Of GW Parkway," *The Evening Star*, June 29, 1970]

### **The Federal-Aid Highway Act of 1970**

In general, Congress authorized funds for the Federal-aid highway program every 2 years. As Congress began working on the Federal-Aid Highway Act of 1970, many issues were controversial, including efforts to divert Highway Trust Fund revenue to transit, especially rail

transit – to fund their construction and subsidize operations. Members of Congress from large cities and those with existing or perspective rail transit systems strongly advocated diversion. They also were seeking ways to resolve controversies over urban Interstate segments. Often, local officials did not want to build them, but if they did not proceed, they would lose hundreds of millions of dollars in economic stimulus. They would have preferred to keep the funds for use on other projects, particularly rail rapid transit in the larger cities.

The District of Columbia's failure to comply with Section 23 of the Federal-Aid Highway Act of 1968 also was a concern, especially in the House of Representatives, as reflected in the action on the District of Columbia Appropriations Act of 1971. In considering the biennial highway bill, the Senate and House took different approaches.

On July 20, 1970, Sammie Abbott was the next to last witness to testify before the Subcommittee on Roads, with only Chairman Randolph in attendance; Senator Cooper joined shortly after the start. Abbott began with an insult:

The cold climate in this room, Mr. Chairman, does not have as much of a chilling effect on me as the absence of Senators who should be sitting up there listening to testimony in order to arrive at a judgment . . .

Abbott was interrupted regularly as he attempted to present his statement. For example, Senator Cooper asked if Abbott "had experience in this field." Abbott responded:

I don't know. I studied architecture. My experience came in fighting a freeway now for about 10 years. I have read every book on the subject. I think I am an expert, because nobody in the District of Columbia Highway Department or at any level will debate the issue in front of the media or in public. I consider myself an expert; yes.

He referred to an article in that day's *Post*, "20 Billion Dollars a Year for Highways." He said, "The Post belatedly has come around to a realization that the highway trust fund has to be put to solving the problems of the abuses that it has caused." Chairman Randolph interrupted. "Just a moment. You speak very fast, Mr. Abbott. Sometimes it makes it difficult for us to interrupt."

(After Abbott made a fairly long statement about the negative impact of Interstate freeways on cities, especially in Washington, including congestion and pollution, Chairman Randolph asked:

The Chairman. Do you own a car, Mr. Abbott?

Mr. Abbott. Yes; and I was asked once by Congressman Pucinski [sic, actually Congressman Clark], how did I get to a hearing.

The Chairman. I didn't ask you that question. I just asked if you own a car.

Mr. Abbott. Yes, I do.

The Chairman. Do you use the car?

Mr. Abbott. Yes, I do, because I have no other means afforded me, Senator, for transportation.

The Chairman. If you had other means, you would not own a car?

Mr. Abbott. I would do nothing in the conduct or my personal life to visit pollution on somebody else. My liberty to drive a car is being conditioned by the roads upon which it has to travel.

Chairman Randolph was increasingly annoyed by Abbott's testimony. He told him:

I hope you will, as a part of your day-to-day existence, say something good about something, or say something where some person has done something good.

He added:

I think, Mr. Abbott, that you perhaps should take a short course, or a long course, in how to influence people. I think that might be advisable.

Abbott was not deterred. As he ranted against the committee's role in favoring the automobile, he said, "You have made the automobile the master instead of the servant of the people."

Chairman Randolph interrupted, saying "I think that is a good point for you to stop," but Abbott continued his denunciation, concluding:

There is a so-called highway lobby . . . . I think that lobby determines the policy of the present Congress in that respect. I am blunt about it, and I think that Senators and Congressmen have to be servants of the people rather than servants of a lobby.

When the committee of the House met – Congressman Kluczynski's committee – every member of that committee was up there when we testified. And they never saw an unfilled chair in the days that those hearings were conducted, and four key members of that committee received \$43,000 in campaign contributions from the Truckers Association.

How else can we characterize it except by "bribery"? I am blunt about this thing.

The same chairman of that committee, who now has, I think, three members of his committee, working, running his restaurant in Chicago – that is the kind [of] stuff with which I will terminate my testimony in this hearing.

That is the problem we face in this country – this problem and everything else – whether or not the Senate is going to be responsive to deal with the issue, the way the people feel it should be dealt with, and not with special interests.

At one point, Chairman Randolph urged Abbott to continue his testimony with propriety and good taste. Abbott replied, "The manner in which I decide to testify is of my own concern, because nobody was more decorous than I, or soft spoken, until they tried to ram a freeway through my mother-in-law's home, and my own home. In these intervening 10 years, sir, I have lived with this issue night and day."

Earlier, in an exchange with Senator Cooper, Abbott had said:

I am devoting myself to the problem, Senator. You are talking to a man who is devoting himself to the problem, who is working as a citizen, unpaid. I lost one-third of my income last year fighting the freeways. So you are dealing with a man who is devoting himself to the problem on the basis of experience.

[Federal Highway Act of 1970 and Miscellaneous Bills, Part 2, Hearings Before the Subcommittee on Roads, Committee on Public Works, United States Senate, 91<sup>st</sup> Congress, 2<sup>nd</sup> Session, Senate Report 641-36, pages 1039-1052]

Without further comment on Abbott's denunciation, Chairman Randolph simply introduced the final witness, John Carter of the Citizens' Coalition Against D.C. Transit. Carter, an African-American, was there to suggest that the District be allowed to use its Highway Trust Fund share to buy the D.C. Transit System and run it as a nonprofit corporation. However, he immediately antagonized Chairman Randolph by claiming that when a delegation from Charleston, West Virginia, appeared before the subcommittee just before Sammie Abbott, Chairman Randolph had addressed all his questions to white members of the delegation, not to the sole black member, Mrs. Ruth Robinson, chairman of the Save the Triangle Committee. Mrs. Robinson was attempting to save her black community, located between the Elk and Kanawha Rivers, from destruction by construction of a six-lane combined section of I-64 and I-77.

Chairman Randolph denied the claim and suggested, "you would better serve your cause if you gave testimony on the matter about which you came to appear than to—" but Carter interrupted to accuse committee leaders of not conducting the hearings fairly. (The transcript shows that Chairman Randolph asked Mrs. Robinson several direct questions about her rental home at 719 Young Street, her work, and family, but that the other white witnesses provided most of the information about the situation facing residents of her neighborhood.) [pages 1052-1061; The testimony by Mrs. Robinson's panel is on pages 973-1039])

The resulting discussion and the Abbott exchanges prompted the *Post* to describe the appearances as being "sometimes acrimonious." [Weil, Martin, "Roads Funds Urged for Mass Transit," *The Washington Post and Times Herald*, July 21, 1970]

Secretary Volpe and Administrator Turner testified before the subcommittee on July 16, but issues related to the District freeways were not part of the discussion. Director Airis did not testify.

The Senate Public Works Committee reported its bill on September 30. It contained a provision repealing Section 23:

The effect of the enactment of this section would be to place the implementation of the interstate highway program within the District of Columbia on the same basis as in any other State. Repeal would constitute neither approval nor rejection of any particular Interstate System segment in the District.

Senator Cooper, the Ranking Republican on the Public Works Committee, had opposed the provision in 1968. As one of the conferees resolving differences between the House and Senate

bills, he had refused to sign the conference report on the bill because of Section 23 and had voted against the conference report in the final Senate consideration of the 1968 Act for the same reason. Now, he added “Individual Views” to the committee report on its bill. He was, he said, “very pleased” that the bill repealed Section 23, which he believed “contradicted the principles of federalism underlying the Federal-aid highway program.” He explained:

In section 23 the Congress for the first time – and the only time to my knowledge – directly interceded in the process of planning and approving specific projects in the Federal-aid highway program . . . . Local initiative and execution is essential. I said in 1968 that I believed Members of Congress lacked the expertise, experience, and authority necessary to determine the need, desirability, location, and design of specific highway projects. The major objection which I raised was that the section effectively superseded local responsibility and initiative in the District of Columbia and created a dangerous precedent for similar action with controversial highways in the several States.

Section 23 had caused “confusion and dismay” in the District and had been misinterpreted to mean that construction had to proceed “without regard to any local or Federal laws.” Senator Cooper agreed with Judge Wright’s view that the provision caused “discrimination between District residents . . . and all other residents affected by highway projects in their localities.”

Instead of resolving the District controversy, “section 23 has inflamed it.”

He appreciated Secretary Volpe’s February 24 report, but the Department of Transportation had not considered the Interstate segments in accordance with its own requirements under Title 23. “They have, rather, accepted the judgment of Congress, which in this case, in my judgment, is neither qualified, nor authorized by law, to make such decisions.” The committee’s bill, in repealing Section 23, “expresses the principle . . . that it is not the function of the Congress to prescribe and force upon the citizens of a State or the District of Columbia a particular highway construction program.” [“Federal-Aid Highway Act of 1970,” Report of the Committee on Public Works, United States Senate, 91<sup>st</sup> Congress, 2d Session, Report No. 91-1254, September 30, 1970, pages 25-26, 33-35]

The House Committee on Public Works addressed the District of Columbia’s freeway impasse in Section 129 of the bill, adopted October 2. Section 129 directed the District of Columbia to begin work within 30 days of enactment on (1) the East Leg of the Inner Loop, beginning at Bladensburg Road, I-295 (section C4.1 to C6); and North-Central and Northeast Freeways, I-95 (section C7 to C13) and I-70S (section C1 to C2). It repealed authorization for the South leg of the Inner Loop past the Lincoln Memorial and the Tidal Basin and removed its designation as part of the Interstate System. In addition, the bill called on the District and the Secretary of Transportation to study and report to Congress on the North Leg of the Inner Loop in the vicinity of K and U Streets, NW-NE., “with respect to that project including alternative routes or plans.”

The bill also included \$65 million for reconstruction of the Baltimore-Washington Parkway to Interstate standards, including six lanes. “The Committee expects that the Baltimore-Washington Parkway will be turned over to the State of Maryland after the authorized improvements are accomplished.”

The committee explained in its report that “a balanced transportation system including a rapid transit system and a cohesive freeway system is an absolute necessity for the continued viability of this community.” The “morass of public agencies and diverse authorities in the city” held such divergent views that “meaningful progress” appeared “highly unlikely.” The four projects that Section 23 of the 1968 Act directed the District to build “have for the most part been tied up in court actions and administrative foot dragging in the District government.”

Of those projects, the District and the Department of Transportation agreed on only one of them, namely the South Leg of the Inner Loop Freeway – the Plan C tunnel link to Independence Avenue. For that reason, the committee bill directed deletion of the segment from the Interstate System. “The effect of this action is to allow the plan agreed to by the District government and the Department of Transportation . . . to be built as a part of I-66 in the vicinity of the Theodore Roosevelt Bridge and the Lincoln Memorial.”

As for the North Leg of the Inner Loop Freeway, the report said, “There should not be any limitations on the area to be studied . . . . The potentially disastrous effects on many of the businesses on K Street should be given careful consideration . . . .” Joint development of housing above the freeway was also to be considered.

Representatives Schwengel and McCarthy, who had objected to Section 23 of the 1968 Act, also objected to the provision in the new bill. In “Additional Views,” they said that:

1. Section 129 violates the House rules governing the jurisdiction of this committee and creates a precedent that could be used to attempt to compel the construction of interstate highways in cities throughout the United States in the face of citizen opposition.
2. Section 129 attempts to deprive the District citizens of the right to participate in deciding whether interstate highways that drastically affect them should be built.
3. The interstate highway program in the Nation’s Capital will desecrate the city and gravely harm its business [sic] and its people.
4. The interstate highway program in the Nation’s Capital is totally lacking in planning justification and is overexpanded [sic] and unnecessary.
5. Section 129 will provide a basis for continuing to impose upon District citizens an interstate highway system they do not want as the price for their support of rapid transit.

In the course of elaborating on these five points, they urged that, “Congress should not become a party to urban suicide in the Nation’s capital.” They cited the Little Report of March 1966 as “the only independent review of transportation planning in the District” and it “found pervasive shortcomings” in the planning process:

The recommendations of the Arthur D. Little Report should have been followed. They were not followed. There was no valid reason or justification for not following them.

Imposing these freeways on the District was “a national disgrace.”

Representatives Schwengel and McCarthy also denounced the way the Metro system had been “held hostage” for the freeway network. They went through the history of how the city council

had little choice but to approve the freeway network. The comments at the time of those who voted for the resolution “reflect the tragic absence of democracy in the Nation’s Capital.” After quoting several of the comments, the Congressmen said of Section 129:

The blunt truth is that Section 129 of the present bill provides the basis for continued blackmail of the District of Columbia. It directs the District to “commence work” on the north section of the East Leg of the Inner Loop and the North Central-Northeast Freeway within thirty days, regardless of the law and regardless of the needs and wishes of the District citizens. It will be the mechanism for holding the Metro System hostage for the completion of these destructive freeways. Even if there were a demonstrated need or public support for the District Highway Department’s interstate highway program (and there is not), we dissent against this disgraceful blackmail of voteless American citizens.

They concluded their dissent:

Section 129 of H.R. 19504 would impose upon the people of the District of Columbia an overexpanded [sic] interstate highway program that is harmful socially, economically and esthetically, a highway program that lacks both planning justification and essential community support. Section 129 may provide a precedent for equally arbitrary action elsewhere in the country. Worst of all, it will provide a basis for the continued blackmail of the District by imposing this highway program on its people as the price for rail rapid transit. We dissent. [Federal-Aid Highway Act of 1970, Report of the Committee on Public Works, House of Representatives to accompany H.R. 19504, 91<sup>st</sup> Congress, 2d Session, House Report No. 91-1554, October 2, 1970, pages 23-24, 94-108]

### **Congressional Action on the 1970 Act**

The Senate took up the 1970 Act on October 1 and 2. In describing the provisions of the bill, Chairman Randolph came to Section 34 repealing Section 23 of the 1968 Act. Noting that his colleagues were well aware of the District’s freeway controversy, he said, “The committee hopes these problems can be resolved, and interstate construction can be completed in this growth area.” Instead of requiring freeway construction, the committee decided that “highways in the District of Columbia should be considered as highways in States in matters of this type, and there should not be a mandate by Congress that a road go here or there.” Senate conferees to the 1968 Act had yielded on Section 23 because if they had not “we would have had no Federal-Aid Highway Act of 1968.”

Chairman Proxmire of the Subcommittee on the District of Columbia commended Chairman Randolph on inclusion of Section 34. Residents of the District should enjoy “the same prerogatives with respect to highway construction enjoyed by residents in other localities.”

Senator Cooper said he recalled the lengthy conference on the 1968 Act and the reason the Senate conferees had gone along with Section 23 against his better judgment. Now, the Senate had an opportunity to correct that mistake:



In doing so, we are not attempting to approve or disapprove any segment of a highway system in the District of Columbia. We are saying that as a matter of law, as a matter of principle, and as a matter of justice to the people of the District of Columbia, Congress should not attempt to become highway engineers and impose on the District of Columbia, or any State, its idea of a highway system . . . .

I foresee a very controversial conference with the House. I do not know what will be worked out there, but I am very glad that the Senate at least, has expressed its will on this subject.

The Senate, on October 2, approved the Federal-Aid Highway Act of 1970, 51 to 0, with 49 Senators not voting – probably because they were on the campaign trail. [“Federal-Aid Highway Act of 1970,” *Congressional Record-Senate*, October 2, 1970, pages 34732-34733, 34750]

### **While Waiting for the 1970 Act**

Stephen Green, writing in the *Star*, discussed the future of Metro on August 5. He began:

Unless the District freeway controversy is resolved, the Washington area may be left with a subway system that served the downtown commercial area but will not reach many people.

Based on available funds, WMATA could build only about 7 miles of the planned Metro system, “a far cry from the planned 98-mile regional system.” The funds available included \$245 million in Federal funds appropriated for FY 1970 and \$85 million in local matching funds. “The cost of the entire regional system is estimated at \$2.5 billion.”

Judge Sirica’s injunction just 2 days earlier delaying the Three Sisters bridge at least until a design public hearing could be held “clouds the freeway picture and contributes to the uncertainty over the release of subway money.” Chairman Natcher had not made clear which projects the city had to advance before he would release appropriations for the city’s matching funds, but “Capitol Hill sources say the required freeways include the bridge and the controversial North Central Freeway,” as ordered by Section 23 of the 1968 Act. Observers expected the Federal-Aid Highway Act of 1970 to order the city to build the roads.

Green described the status of Metro construction:

With contracts already awarded and several to be awarded shortly, the area will have six miles of rapid transit line running in a semi-circle between Dupont Circle and Rhode Island Avenue NE and an extension running west from Farragut Square, under the Potomac River to Rosslyn.

This network would “provide access between different parts of the commercial area and a relatively small . . . residential section of Northeast, [while] hundreds of thousands of commuters would be left without rapid transit service.”

WMATA said it would not advertise additional contracts after August unless Chairman Natcher released the city's matching funds. [Green, Stephen, "7 Miles of Metro Money," *The Evening Star*, August 5, 1970]

On August 6, General Graham updated the WMATA board of directors during their weekly meeting. Outlining recent events, he said that "one or two or three people [at the White House] are working on this actively." Other sources informed Jack Eisen that "the President's advisers are reluctant to involve Mr. Nixon prematurely."

Later in the day, General Graham and Chairman Yeldell appeared before Senator Bible's Transportation Appropriations Subcommittee. Eisen reported that Yeldell and Graham "were scarcely settled in their chairs at the Senate hearing before the question of the road impasse was raised." Although the subcommittee was not directly involved in WMATA appropriations, Chairman Bible, as one of the authors of the original legislation authorizing rail rapid transit, asked about the stalemate. Chairman Yeldell said:

Being a member of the District government, I feel we have complied with the '68 Highway Act. It's well above our heads to handle . . . . The move to break the impasse will have to be . . . between the President and the chairman of the House Appropriations Subcommittee.

Chairman Natcher's decision to withhold District matching funds affected matching funds from other sources, with the result that WMATA would have to halt contracting in September.

They also explained, as Eisen reported, that "on-and-off financing of the subway by Congress imperils the sale of \$835 million revenue bonds that form a major feature of the 98-mile system's financial plan" for the \$2.5 billion system. [Eisen, Jack, "Need for Nixon's Help On Metro Funds Seen," *The Washington Post and Times Herald*, August 7, 1970]

On September 4, Representative Gude sent a telegram to President Nixon urging him to intervene to secure release of the Metro funds. Referring to "continued obstruction" and the city's failure to resolve the impasse, Representative Gude said the situation required White House intervention. "I strongly urge such action in order to assure commitments of subway money and to prevent further delays and escalating construction costs, if not the total loss of our rapid transit system." [Green, Stephen, "Nixon's Aid On Subway Fund Asked," *The Evening Star*, September 5, 1970]

With Congress planning to recess in October for election campaigning, WMATA officials and city officials saw no solution for the funding impasse in the near future. Unless Chairman Natcher released the District matching funds by October, the Metro construction schedule would have to be revamped. "It's critical now," a spokesman said.

Sources reported that if the city had really wanted to satisfy Chairman Natcher, they would have begun construction of the North-Central Freeway. That would, however, have been contrary to their own judgment and local opposition.

City Council Chairman Hahn said he was “still optimistic” that a solution would be found, although he did not know what Chairman Natcher wanted done. Deputy Mayor Watt agreed that the city did not know what steps were needed to satisfy the chairman. Mayor Washington speculated that Chairman Natcher wanted construction of the freeways to begin “expeditiously.”

Capitol Hill sources indicated that the price for \$34.2 million in Metro matching funds was construction of the North-Central Freeway and the East Leg of the Inner Belt Freeway north of Bladensburg Road, not the city’s planned parkway. Green explained:

The city’s recommendation to scrap the North Central has been especially galling to pro-freeway forces because the construction of it and its Northeast Freeway branch are considered essential to Maryland’s plan to build Interstate Route 95 inside the Capital Beltway . . . .

Pro-freeway forces want the East Leg built north of Bladensburg Road and connected with the Northeast Freeway to provide a complete express route through the city for Interstate Route 95 traffic.

Chairman Natcher, as usual, declined to speak with reporters about the impasse. His acquaintances told Green that Chairman Natcher was not allied with the highway lobby, but believed the city had an obligation to obey congressional wishes. “He also is reported to feel the city misrepresented its intentions about building freeways last year when he agreed to release subway funds” after President Nixon assured him the city and the Department of Transportation, with help from the Justice Department, would defend freeway construction vigorously in court.

Pro-freeway forces also were antagonized by the city’s decision to hold a design public hearing instead of appealing Judge Sirica’s decision. “They fear freeway foes will take advantage of the hearings to interject other issues, besides the design of the bridge, that would delay resumption of construction.” Green concluded:

With no sign of a breakthrough in view, the intervention by Nixon may be the only way to obtain release of money and keep subway construction rolling before current financial and building plans are doomed. [Green, Stephen, “Metro May Again Be Derailed,” *The Sunday Star*, September 6, 1970]

Jack Eisen confirmed that chances were “fading fast that Congress will provide the money this year to keep Metro construction on schedule,” according to “a key Capitol Hill source.” The source thought the impasse could be broken only by presidential intervention.

Another anonymous Federal official who was trying to break the impasse thought the city might try convincing Chairman Natcher that it is vigorously trying to build the freeway network. The official added, “That would be uphill sledding.”

Secretary Volpe, the Capitol Hill source told Eisen, “made the subway financing less likely by deciding not to appeal the recent court-ordered halt of work on the Three Sisters Bridge.” City officials agreed to the hearing, resulting in a halt to construction:

This decision opened an unexpected rift between profreeway lawmakers on Capitol Hill and equally profreeway officials in the Department of Transportation.

Although Secretary Volpe's advisers agreed with his decision, the lawmakers thought the case should have been appealed and taken to the Supreme Court if necessary. "They see the case as a test of the constitutional role of Congress as the lawmaking body for the District of Columbia." The anonymous source added:

Moreover, Natcher is understood to feel that President Nixon violated his public pledge of last year to provide[a] full and vigorous defense of all lawsuits challenging the road system. This, according to his purported view, would include full appeal.

The result was "a backstage debate among prohighway officials over the best strategy to get the road program moving again."

If the impasse could not be broken, WMATA would have to drop its program from the planned \$376 million in FY 1971 to \$178 million:

Of this drop, \$135 million would be in revenue bonds that the Metro hopes to sell and repay from future fare collections . . . . Metro officials privately acknowledge that they are nervous over their ability to market these bonds if the uncertainty over congressional appropriations persists.

The only remaining legislative vehicle for the \$34.2 million in District matching funds was the supplemental appropriation bill, but if it were not passed by the current Congress, the bill would die, and the next Congress would have to decide whether to pursue it and how to address the freeway-Metro impasse. [Eisen, Jack, "Construction Delay Likely On Subway," *The Washington Post and Times Herald*, September 11, 1970; Eisen, Jack, "Natcher Holds D.C. Subway Hostage to Freeway Program," News Analysis, *The Washington Post and Times Herald*, September 13, 1970]

As noted earlier, the House Subcommittee on Roads approved its bill on the Federal-Aid Highway Act of 1970 on September 16. Section 129 ordered the city to build the North-Central Freeway and the East Leg Freeway north of Bladensburg Road, as well as deleting the South Leg from the Interstate System and ordering a study of the North Leg of the Inner Loop Freeway. Chairman Kluczynski said the city must build the North-Central Freeway if it wanted Congress to approve appropriation of \$34.2 million for Metro construction:

If the District government doesn't want to do it, there won't be any subway system. I love this city and I'm trying to do what's best for it. I can't understand why the city council and mayor have listened to a Communist like Sammie Abbott and refused to build the freeway. [Green, Stephen, "Order Central Freeway Built, Hill Unit Asks," *The Evening Star*, September 16, 1970]

Councilman Yeldell, chairman of WMATA's board of directors, was asked about the North-Central Freeway while appearing on WTOP's "Washington News Conference" to be broadcast on September 20. He said that if the city council had no choice but to vote for the freeway to

obtain subway funds, he would resign. If that situation arose, the local government would cease to exist. "It's just not a matter of a freeway anymore . . . the people of D.C. are very tired of getting pushed around by whims of Congress." The government would no longer be "viable" if ordered to build the freeway. "I made my capitulation on August 9, 1969 . . . I don't plan to again." As for the possibility that the impasse might scare off investors in Metro bonds, he said, "If I were an investor, I wouldn't buy the bonds under the present circumstances." [Green, Stephen, "Yeldell Says He'll Resign If Forced to Vote Freeway," *The Sunday Star*, September 20, 1970]

Secretary Volpe was in Boston on September 21, 1970, for the annual meeting of the American Transit Association. In response to a question during a press conference, he revealed that he was again acting to break the impasse over Metro funding. In his first comments since the House Subcommittee on Roads approved its bill with Section 129, he said he and Administrator Turner had met on September 18 with Mayor Washington and other city officials in an attempt to resolve differences between the subcommittee and the city on the North-Central Freeway. He also was reaching out to members of the Committee on Public Works.

Eisen reported that Secretary Volpe ruled out dropping the North-Central Freeway from the plan, but thought there might be room to change its route or design. "It's got to be built somewhere," he said, "but you just can't slam it through without proper consideration."

Given the "delicate stage of the negotiations," Secretary Volpe was hesitant to get into details. "It would do little good to comment . . . on how and what we're coming up with."

In a Washington press conference the same day, Chairman Hahn said the city had complied with Section 23 of the 1968 Act. As far as the city council was concerned, the North-Central Freeway was dead. If Congress ordered it built, he would not even call for a vote; it could not be approved. The city, he said, already was in compliance with Section 23, having recommended deleting the North-Central Freeway from the Interstate System and replacing it with the Industrial Highway.

As he spoke, Sammie Abbott took over the microphone to tell Hahn that "no freeways can be built in the District of Columbia without Council approval. They have the power to tell Congress you can't build these freeways." He also took the opportunity to challenge Councilman Yeldell's statement that he would resign before he would vote for the North-Central Freeway even if it meant securing the subway funds. "He should not say that he is going to resign. He should say we are going to mobilize . . . the council members should fight or get out." ECTC was planning a rally at noon on Saturday, September 26, to protest Section 129. The rally was part of ECTC's efforts to "force the City Council to catch up with the city."

Chairman Hahn did not respond to Abbott, but after the press conference told reporters that under the 1968 Act, the city council had to vote on the freeway plan. He added, "If Congress wants to build a freeway, the Council is powerless to stop it." [Eisen, Jack, "Volpe Seeks to Break Roads-Metro Impasse," *The Washington Post and Times Herald*, September 22, 1970; Basham, William, "Can't Stop Freeway, Hahn Says," *The Evening Star*, September 21, 1970]

## **Broyhill and the 1970 Revenue Act**

Mayor Washington, Deputy Mayor Watt, and other city officials testified before a subcommittee of the House District of Columbia Committee on September 22 to discuss the city's revenue proposals. The proposals included an increase in the city's gas tax to help pay for the freeway program. (The official titles of Commissioner and Deputy Commissioner were used throughout the hearing rather than the informal Mayor and Deputy Mayor.)

In a discussion of sewage disposal, Representative Gude observed that "this upper Potomac intersection relief sewer is not going to be finished, and we are going to get raw sewage overflows in the Georgetown area, until we have the completion of the Potomac River Freeway plans." He added that at the rate of freeway construction in the city, "that sewage overflow is liable to go on for a number of years."

Representative Broyhill took this opportunity to ask if Commissioner Washington was required by the 1968 Act to secure city council approval to comply with Section 23. The commissioner explained that the city was in compliance with Section 23, having acted on every freeway cited in the legislation:

[E]very link that is in the 1968 act is being acted upon except those that are constrained by litigation, the bridge itself, the Three Sisters Bridge, and we have a contract ready for the east leg, which we have been enjoined from moving on. The matter of the north central, which has come forward, is one that was not in the 1968 act in the sense of it being built. The Congress asked us to "study an alternative." We did present an alternative, which was one that involved a link going from the east leg presumably under or at some point developed under the arboretum into New York Avenue, with existing street lines going as an alternative.

He recognized that the House Committee on Public Works was working on a bill that would require construction of the North-Central Freeway, and that litigation was involved, "but I think we have to distinguish between whether we are in compliance, which I think we are, and our lawyers indicate we are, as between something else that the Congress may wish."

Representative Broyhill pointed out that Chairman Natcher did not agree with the city's interpretation. Further, the Virginia Congressman was sympathetic to people, whether in the District or his own district along I-66, who have to move to make way for a freeway, but "at some point the Congress feels that this should move." He asked what Commissioner Washington thought Congress should do "at this point, in order to move this freeway along? Should they let Interstate 95 just die and not come into the Nation's Capital?"

Commissioner Washington replied that, "We talked on the one hand about not driving people out of the City, and where we take a route that goes right through one of our better tax paying neighborhoods." Without going into the history, he noted that the freeway "ended up over in an area that happened to be primarily black, of substantial homeowners." As required by the 1968 Act, the city made a study, found a viable alternative to the North-Central Freeway, and offered it

to Congress. “What I am trying to say is that the difference is the difference in terms of what the Congress wants now, not whether or not we have complied.”

Chairman Fuqua asked what the city was doing to expedite judicial review. Commissioner Washington explained that Judge Sirica had issued an injunction until the city complied with the public hearing requirements on the design and addressed the questions about the safety of the approved design. The city decided to hold the hearing, tentatively scheduled for November 17, instead of going through “a long process of appeal to the Court of Appeals.” The city “felt the straightest way here is to follow what the Court has suggested.”

The current city government, he said, inherited the freeway map and the attendant problems. “There is a problem . . . about protecting the local interests based on what local determination amounts to. That is inherent, and in my opinion something that locally we ought to have some arm room on.” If Congress determines by statute that the city must do something, “then I think the question is no longer relevant. We do that, but until that point, Mr. Chairman, I am saying that there has to be some kind of local consideration.” Every other district in the country has some say in where roads are built.

Representative Broyhill disagreed that the city had not been given adequate consideration. Congress recognized the relocation problem by including a major provision in the 1968 Act on that subject. That same legislation asked the city to consider alternative locations for the North-Central Freeway. “You say you complied with it, but you actually came up with the same plan that had been previously rejected prior to 1968, and thus found unacceptable as a part of the Interstate System.” The Transportation Board of the COG had turned down the Industrial Freeway “and I understand that the Bureau of Public Roads does not feel that it is either economically feasible or practical to build it where you had selected.”

When Commissioner Washington disagreed, Representative Broyhill said he had talked with Chairman Natcher and members of the Committee on Public Works about the suggested alternative. He would think that Commissioner Washington or other city officials would be in “constant communication with Mr. Natcher” to “find out where the misunderstanding happens to exist, because we are not getting anywhere by you and your advisers saying, ‘Well, I have complied’ and yet the Congress says you have not complied.” He added, “In the meantime, we don’t have any highways.”

Commissioner Washington, clearly annoyed, replied:

Mr. Broyhill, don’t you think we have done just that, tried to find out, where no one has told us, specifically now where we are not in compliance, and I say that today no one in this Congress or any place else has told us where we are not in compliance.

Representative Broyhill said that the Public Works and Appropriations Committees indicated that the city had not come up with an alternative that is satisfactory.

Commissioner Washington thought that observation proved his point:

Oh, that is different. That is different. Isn't that different than not complying? What they are saying is that that alternative which was written into the bill is not the one that is acceptable to the Congress.

They disagreed about whether the Industrial Freeway had been rejected before 1968, but Representative Broyhill moved on by disagreeing with the idea that the District of Columbia was not being given the same consideration as other communities. Congress, he said, would have moved on the freeway issue "long ago if they were not very much concerned with the interests of the property owners of the District of Columbia."

Commissioner Washington said again that it was a matter of local determination. The city came up with an alternative to the North-Central Freeway along the Baltimore and Ohio Railroad, but Congress apparently does not agree with that alternative. "You say it isn't acceptable, and that is a different point than whether we are complying." He added that the people in the path of the North-Central Freeway "were hard-working taxpayers with small houses which they could not easily replace, who had been there for some years, and they are the bone of the entire city, and this was the interest here."

Representative Broyhill said that every city was in the same situation as the District of Columbia because BPR "had to be satisfied with the proposed locations." The plans had to meet engineering and cost standards, leading to continuous back-and-forth adjustments. "We are just far behind, that's all."

Commissioner Washington reiterated his point about the difference between compliance and disagreement. He said, "You may disagree with my kind of statement but here is the kind of thing that always hits the voteless."

When Representative Broyhill disagreed that a misunderstanding had occurred, Commissioner Washington asked:

Then what are we faced with? Everything that we have going, including the subway which all of us need, is held hostage. The Revenue bill you are talking about is holding that hostage. Now, where else do you apply that standard in America?

Commissioner Washington was referring to Representative Broyhill's introduction of an amendment to the bill to prohibit release of the Federal payment to the city until it complied with Section 23 of the 1968 Act and any other conditions Congress may impose, starting with construction of the North-Central Freeway.

Representative Broyhill observed, "Well this, of course, is the Nation's Capital," to which Commissioner Washington said, "I know that." The Congressman continued by pointing out Federal funds going to the city, adding, "and, of course, we are financing a subway system at a much higher Federal contribution rate than in any place else in the United States." Meanwhile, the city was lagging behind other jurisdictions. "How much longer do you think the Congress should wait before they commence?"



Commissioner Washington suggested “we should work together” because they “want the same things . . . and hold out for this partnership to be all-embracing.” If there are differences, they could work them out. “I am for that,” but the Congressman replied:

We have the plan that you submitted that was rejected prior to 1968, and the North Central Freeway plan that you rejected, so we have those two extremes. That is all we have. We have nothing in between, so at what point do we move forward?

The commissioner said the city was moving forward on every section of freeway it could, subject to litigation, except for the North-Central Freeway.

Representative Broyhill pointed out that neither the Public Works Committee nor the Appropriations Committee thought the city had complied with Section 23. Commissioner Washington pointed out that the city was talking with Secretary Volpe, who would help answer some of the questions. “I don’t know whether they will fully resolve it,” but the commissioner was hoping for more of a partnership to come out of the discussions. “My concern is that I still don’t know where we are not complying.”

Then, Representative Broyhill observed, since the city felt it had complied, the city should not object to his amendment holding up the Federal payment pending compliance with the 1968 Act. “You feel that you should comply with that Act, don’t you?”

Commissioner Washington said:

I think not only should; would. I have questions just like the President of the United States may have questions, but when an Act is passed we intend to comply.

As the discussion of the freeway impasse neared an end, Representative Broyhill talked about his amendment. No one wanted to hold up the Federal payment to the city, and maybe his amendment would not be adopted in the final revenue act:

We are going to authorize a payment because we feel it is needed, but maybe what will be accomplished by this type of amendment is to give a little higher priority to this freeway construction and thus to clear up this confusion. There is no question in my mind but [that] reasonable men can get together and work out a solution. So, it is not that we want to hold up the Federal payment, nor that we want the District Government to do something that is improper or unfair, but we must bring this deadlock to an end. That is where we stand right now and it is not good. You don’t like it, and the committee doesn’t like it.

He asked if the commissioner wanted to place a bet on whether the language would end up in the bill. The commissioner declined to bet, although he would prefer the language not be included “and depend upon good faith between partners.” But, the Congressman pointed out, since the city was going to comply, what difference would it make if the amendment were enacted. In that case, the commissioner said, “I could just reverse the question and say if I am going to comply why do you put it in there.” The Congressman answered:

Because you haven't complied yet. I think, frankly, that between you, the Secretary of Transportation, and Mr. Natcher and Mr. Kluczynski, this thing will be resolved in the not too distant future. You have some people in the District of Columbia who don't want a highway at all. You are not going to please everybody, I can't do it in my District and nobody else can either, but at some point we are going to have to do what we feel is right, and if you feel that way also . . . . We just have to resolve this problem and we should do it right away. This is all we are trying to do. [Revenue Proposals, Hearings Before Subcommittee No. 4 of the Committee on the District of Columbia, U.S. House of Representatives, 91<sup>st</sup> Congress, 2d Session, September 17, 22, 23, and 28, 1970, pages 143-150]

When Chairman Hahn appeared before the subcommittee on September 23, Representative Broyhill raised the freeway issue again. They went through some of the same issues as the day before with Mayor Washington, but the Congressman said he disagreed with the mayor that the city had complied with the 1968 Act. Further, in view of Mayor Washington's claim that no one had told him how the city had failed to comply, Representative Broyhill had compiled a list of the ways:

Since the Commissioner doesn't seem to agree that you are in noncompliance, and says in fact that you are in compliance, and yet the Congress does not agree, I felt that somebody had better put these facts together so we could use this as a working paper, a fact sheet, and he can check it right back or you can check it back with the Appropriations Committee and Public Works Committee and see if this is in accord with what they feel is noncompliance.

He provided the list to Chairman Hahn:

The District of Columbia has not been in compliance with the 1968 Highway Act at any time since passage of the Act.

From August, 1968 to August, 1969 the District Government position was outright refusal to comply.

From August, 1969 when actions of the D.C. Government and written assurances from the President of the United States implied that the freeway system would proceed, to early in June of 1970 (when House action again deleted transit funds) the D.C. Government has been in non-compliance in the following areas:

Feb, 1970 – D.C. adopted and submitted to Congress a plan which had been rejected in its most essential points by the Transportation Planning Board in February, 1969. Such a plan requires approval of that Board under Section 134 of Title 23, United States Code. D.C. Government never submitted its 1970 plan to the Board and made no attempts to coordinate its plan with the areas outside the District of Columbia boundary.

Feb. 1970 – The D.C. plan for the East Leg of the Inner Loop recommends a tunnel through the Arboretum which is in direct conflict with the direction in Section 23(b) of the 1968 Highway Act to construct the East Leg as far as Bladensburg Road in accordance with the plan contained in the 1968 Interstate Cost Estimate. There has never been any engineering study whatsoever of the route recommended by the D.C. Government for this East Leg routing, and it was further quite obviously never the intent of Congress that the route should penetrate the Arboretum in such a manner.

Feb.-March, 1970 – D.C. Government after advertising a contract and receiving proper bids with an acceptable low bidder for the East Leg of the Inner Loop north of Barney Circle refused to award the contract during a 60-day period when award could have been made. At the end of the 60-day period the courts stopped any contract on the project.

May, 1970 – D.C. Government still had not begun design work on the East Leg between Benning Road and Bladensburg Road. Section 23(b) of the 1968 Act required this work to start within 30 days of the August 23, 1968, enactment date. (This work has subsequently started).

May, 1970 – D.C. Government was still seeking agreement with the National Park Service on the plan for the East Leg between Barney Circle and Benning Road which was directed to be under design by the 1968 Act.

An additional item which begs the question of whether the D.C. Government has any real intent to carry out in its entirety Section 23(a) of the 1968 Highway Act lies in the fact that the reports of the Department of Transportation and the District Government are completely different except for a single project, the South Leg. There was obviously no cooperation between the two as was anticipated in the Act.

The most recent occurrence of bad faith on the part of the District of Columbia was the failure to appeal the Court [decision] on the Three Sisters Bridge. Written assurances to the Congress from the President indicating that all would “vigorously defend” any lawsuit have certainly not been complied with.

In summary, the District of Columbia Government has obviously not made any attempt to vigorously pursue the construction of the Interstate System in the District of Columbia as spelled out in the 1968 Act but has rather taken reasonable opportunity to either drag its feet or inject confusion into the issue. Any reasonable definition of conformance with the Act would begin with a sincere effort to undertake all elements outlined in the Act until they are carried out – this the District has not done.

Chairman Hahn took issue with the list, which he was seeing for the first time. They discussed some of the points, but Representative Broyhill concluded the discussion because other scheduled witnesses were waiting to testify. He summarized:

I just want the subway started now instead of next year. I think every month or every day we delay this project will cost us a great deal more money. It is not my intention nor the intention of any Member of this committee that the District Government be denied any funds for any purpose for which it really needs them. We just want to accelerate – and I am repeating this for emphasis – that getting together that you are going to have to do. I want to be your “squeakiest” axle, so that you will get together and resolve these differences, because I bet you the greater part of this misunderstanding is due to lack of communication. I don’t think contact has been to the extent that the Commissioner pointed out yesterday.

Chairman Hahn offered to answer each point, adding, “If I paid as much attention to my practice [of law] as I have to studying this freeway situation I am sure I would be a wealthier man.” Representative Broyhill declined the offer, saying he preferred that the city address the points with the Committee on Public Works. [pages 153-176]

### **Not Quite Finishing The 1970 Act**

On September 2, 1970, the *Star*’s Stephen Green reviewed the question that had been raised about the safety of the design chosen for the Three Sisters Bridge. He reminded readers that Administrator Turner had “expressed doubt as to the safety of the present design planned for the bridge that calls for the main span to run suspended in air for about 740 feet between two supporting piers near each bank of the river.”

As noted earlier, FHWA’s concerns had been addressed. Officials pointed out that similar structures had been built in other countries. The New York firm that designed the bridge said that Europeans had “built many such structures and have indicated they will offer their construction expertise to contractors if they’d desire it.”

Director Airis also was satisfied that the design was safe:

But he said one or more alternate designs, possibly calling for more than two supporting piers, may be presented at the hearing now tentatively scheduled for Nov. 17 . . . .

Turner’s office will have to give its approval to any bridge design selected by the highway department after the public hearing. [Green, Stephen, “New 3 Sisters Bridge Design Weighed,” *The Evening Star*, September 2, 1970]

On September 23, the *Star* reported that President Nixon had designated Secretary Volpe to seek a settlement to obtain release of \$34.2 million in District matching funds for Metro. As noted earlier, Secretary Volpe had already entered into behind-the-scenes discussions with the city and on Capitol Hill. According to an aide to Secretary Volpe, he had been in regular contact with the White House to discuss the impasse. [Green, Stephen, “Nixon Asks Volpe to Act in Metro Row,” *The Evening Star*, September 23, 1970]

On September 24, the House Committee on Public Works approved a bill for the Federal-Aid Highway Act of 1970. It included a provision requiring the city to build the North-Central Freeway and the I-95/Northeast Freeway, with work to begin on both freeways “not later than

30 days after the date of enactment of this act.” As discussed earlier, the bill also eliminated the South Leg of the Inner Loop Freeway and called for a new study of the North Leg. [Moore, Irna, “House Unit Backs City Freeway Bill,” *The Washington Post and Times Herald*, September 24, 1970]

Mayor Washington and City Council Chairman Hahn held a joint press conference on September 25 to clarify their views on the North-Central Freeway. In a joint statement, they argued:

The City Council . . . and the mayor have approved a comprehensive freeway system for the District [that] is acceptable to its citizens and approved by the officials appointed to direct them. This system does not include a North Central Freeway.

Hahn said, “Freeways exercise such a dominating influence on the life of the city that the choice of location of freeways must be in the hands of the people who live in those cities and those governing officials who direct them.”

The two leaders were, they said, unalterably opposed to the project. At best, Congress should not force construction until the study recommended by Secretary Volpe had been completed. Mayor Washington declined to say what he would do if Congress required construction with subway funds at risk. Such a question was, he said, “speculative.”

Shortly after the press conference, they learned that the Senate Committee on Public Works had acted on its 1970 Act bill that included a provision repealing Section 23 of the 1968 Act. Senate committee members understand that their House counterparts had included a measure in their bill calling for construction of the freeway network. The *Post* reported:

Yesterday’s decision by the Senate Committee was seen as an attempt to prevent a recurrence of the 1968 conference by providing ammunition that the Senate conferees could bring to this year’s negotiations with the House. [Green, Stephen, “Don’t Demand Freeway, D.C. Asks Congress,” *The Evening Star*, September 25, 1970; Moore, Irna, “Road Act Repeal Backed,” *The Washington Post and Times Herald*, September 26, 1970]

ECTC staged a protest on the east steps of the Capitol on Saturday, September 27, urging citizens to engage in civil disobedience to block the North-Central Freeway. Stephen Green described the scene:

More than 150 freeway foes sat on the east steps of the Capitol for two hours. They were told they may have to be willing to break laws and face jail to prevent city officials from agreeing to build the freeway, which would run through Northeast Washington to Silver Spring.

As curious tourists watched, the freeway foes waved signs and sang protest songs in the hot sun . . . .

Julius Hobson called Mayor Washington “a make-believe mayor” and called the city council “spineless.” He predicted they would “knuckle under to Congress.” Freeway foes would “have to go to jail to show it’s not a game.” Charles Cassell added that they must “demonstrate a lack of respect for the fascist system.”

Sammie Abbott told the crowd, “It will have to be the power of the people in the streets” if the city council did not prevent freeway construction.” He announced that ECTC planned to lobby Congress on October 7.

Representative Gude said in a statement that he opposed holding District revenue “hostage to construction of the North Central,” calling Representative Broyhill’s amendment to that effect “blackmail.” Congressional action, he added, to force construction of the North-Central Freeway was “impractical” in view of uncertainty about the Maryland portion of the road.

The night before, appearing on WRC’s “Community Timeline,” Representative Broyhill had said that he and other area representatives would send a letter to President Nixon requesting a meeting to discuss the situation. “We’re at an impasse, obviously,” he said. [Green, Stephen, “Resistance Urged to Bar Freeway,” *The Sunday Star*, September 27, 1970]

When Congress adjourned on October 14 for the 1970 mid-term elections, the House had not acted on its bill, H.R. 19504. Unless Congress returned after the election for a lame-duck session, the Federal-Aid Highway Act of 1970 was dead.

### **Trying to Advance Metro**

Within an hour after Congress adjourned on October 14, 1970, Secretary Volpe announced that he was offering a 6-month loan of \$57 million to keep Metro construction moving forward despite congressional efforts to delay appropriations because of the freeway impasse. In a statement, he said:

I am today directing the urban mass transportation administrator, Carlos C. Villarreal, to entertain an application for an emergency loan . . . to enable the Metro program to go forward uninterrupted by confusion and controversy over particular freeway projects..

The loan would allow Metro to stay on schedule while, city officials hoped, the congressional fund impasse was resolved in a lame-duck session after the election. With the loan, WMATA would be able to continue awarding construction contracts through November.

Secretary Volpe said that he was acting “at the personal direction of President Nixon” to resolve the impasse. President Nixon had not personally approved the loan, but Secretary Volpe had cleared the plan with OMB. Although the Secretary’s aides said they had checked with key Members of Congress prior to the announcement, Chairman Natcher “was reported to be angry over the arrangement.” Before leaving Washington, he had called OMB to lodge a sharp protest, but had not connected with a ranking official.

The offer came after secret talks between Metro Board Chairman Yeldell and Secretary Volpe. Yeldell told the board that the loan would be repaid at 6-percent interest. He added, however,

that the interest could be wiped out if the board invested the principal at a 7-percent annual rate until it was needed to pay contractors.

Metro General Manager Graham had not been informed of the talks because, as Jack Eisen reported, his “long service as an Army Corps of Engineers general and his continuing ties with key lawmakers imbued him too closely with the congressional view of political wisdom.” In fact, Graham would have recommended that the board reject the offer, but he was not asked for his views:

The political risks in the loan scheme were not even discussed by the board until a reporter asked a question and Metro director Carlton R. Sickles, a former Maryland congressman, acknowledged that they existed.

The main risk is that Congress, ever jealous of its prerogatives, will respond to Volpe’s end run by stiffening its refusal to grant the funds that are now being withheld from the Metro. It could also bedevil some programs in Volpe’s Department of Transportation.

Should this occur, the Transit Authority might find itself in the predicament of owing \$57 million plus \$1.7 million interest to the Department of Transportation next spring but having no money to repay it.

On October 15, WMATA approved acceptance of the loan and directed General Graham to file the application with UMTA. Yeldell cautioned, “We all think this will be a key to the resolution of the impasse, but it shouldn’t be mistaken for a resolution of the impasse.”

Later in the day, President Nixon’s press secretary, Ronald L. Ziegler, announced that OMB had approved the loan.

[Valentine, Paul W., “Subway Funds Offered,” *The Washington Post and Times Herald*, October 15, 1970; Eisen, Jack, “Subway Loan Is Accepted,” *The Washington Post and Times Herald*, October 16, 1970; Green, Stephen, “Subway Board Accepts Offer Of U.S. Loan,” *The Evening Star*, October 15, 1970; Green, Stephen, “White House Approves \$57 Million Metro Loan,” *The Evening Star*, October 16, 1970; Eisen, Jack, “Volpe Gambles on Metro Loan,” *The Washington Post and Times Herald*, October 19, 1970]

### **Election Transitions**

Part of the city’s optimism stemmed from the fact that on September 15, 1970, Chairman Fallon had lost his primary election to State Delegate Paul S. Sarbanes and would be leaving Congress in January 1971.

Following the first Earth Day in April 1970, environmentalists had compiled a list of “The Dirty Dozen” Members of Congress based on their environmental records. Chairman Fallon was the most prominent name on the list. He had been Chairman since January 1965 of the Public Works Committee, which the environmentalists referred to as the Pork Committee. His hometown of Baltimore had long-running controversies over its Interstate routes, including I-70 through Leakin Park and a stable minority community and a planned I-95 bridge across the Patapsco

River overlooking historic Fort McHenry. The environmentalists cited his opposition to the use of Highway Trust Fund revenue for mass transit as one example of why he was a “tool of the highway lobby.”

In the Democratic primary, Delegate Sarbanes attacked Fallon for his age, 68, and health, remoteness from his constituents, close ties with the highway lobby, and support for the Vietnam War. After losing the primary, a bewildered Fallon said, “I used to be complimented on the great job I was doing for the highway program. Now that is the thing that is used against me.” As *Fortune* magazine pointed out:

Flushed with their success at knocking off the powerful Fallon, environmentalists have gone on to organize the Highway Action Coalition at the national level to eliminate the federal highway trust fund or stretch the uses to which it can be put. [Cameron, Juan, “How the Interstate Changed the Face of the Nation,” *Fortune*, July 1971, p. 31]

Further, the ranking Republican on the Public Works Committee, Representative Cramer, who had worked closely with Chairmen Fallon and Natcher on District freeway issues, had not run for reelection. Instead, he ran for the seat held by retiring Senator Spessard Holland, but lost in the general election.

In Maryland, Democratic Senator Tydings lost his reelection bid to Republican Representative J. Glenn Beall, Jr., whose father had held the seat before Tydings. As the *Star* put it:

Beall, 43, received massive aid from the Nixon administration including campaign visits by both the President and Vice President Spiro T. Agnew.

“I think the White House helped – considerably,” Beall said in his victory statement.

But the deciding factor, it appeared, was the degree of anti-Tydings sentiment in Maryland – antagonism toward the outspoken 43-year-old liberal which did not show up in pre-election polls that consistently showed Tydings out in front of Beall.

Other Maryland Democrats, including Governor Mandell, won reelection. Senator Tydings conceded, “I guess I was just too liberal . . . or at least they thought I was.” Much of the opposition came from gun rights advocates who opposed his efforts to tighten gun controls. Gun groups had distributed bumper stickers reading: “If Tydings Wins – You Lose.” As a result, the worst thing about his loss was, he said, that, “I suppose it will discourage others from taking on the gun lobby.” [Angle, Martha, “Beall Brings Home the Seat His Father Lost to Tydings,” *The Evening Star*, November 4, 1970]

Among the Senators who also lost their reelection bids was Democratic Senator Albert Gore, who had collaborated with Representative Fallon in crafting the Federal-Aid Highway Act of 1956 that launched the Interstate program. Senator Yarborough, the father of Section 4(f), lost his reelection bid in Texas.

Speaker of the House McCormack had not sought reelection. He wanted to spend time with his ailing wife of over 50 years. They had lived in a three-room apartment in the Hotel Washington



at 515 15<sup>th</sup> Street, NW., but he would stay with her in Washington's Providence Hospital until her death a year later.

Majority Leader Albert of Oklahoma would become Speaker of the House in the 92<sup>nd</sup> Congress.

In 1968, Montgomery County, Maryland, had approved a change in the county charter to create a position of county executive whose powers would be similar to a mayor. County Councilman James P. Gleason, who had been WMATA's first chairman, announced his candidacy for the post. In late September 1970, he announced that he would remain on the council, but would resign from several posts, including the WMATA board, to devote more time to his campaign. In a letter to County Council President Avis Birely, Gleason wrote, "I do not want this action to be construed . . . as lessening my complete dedication and support of the implementation of the mass transit system." However, the post of county executive was "far too important to give less than my full attention to the campaign other than my regular county council responsibilities."

On September 23, the Montgomery County Council elected President Birely to replace Gleason on the WMATA board.

Now, in the first county executive election, Gleason was the victor in a tight race. He took office on December 7. The county council consisted entirely of Democrats. [Taaffe, William, "Gleason Quits Transit Posts To Campaign," *The Evening Star*, September 23, 1970; "Mrs. Birely Gets Transit Job," *The Evening Star*, September 24, 1970; Greenhalgh Concedes in Montgomery," *The Evening Star*, November 9, 1970]

Another election affecting the District would not take place until March 1971. On September 23, 1970, President Nixon had signed a bill giving the District its first elected congressional representative since 1875 (P.L. 91-405). The winner of the election would be a nonvoting delegate to the House of Representatives. President Nixon had proposed the arrangement in April 1969, when he called it a step in an "orderly" road to self-government.

Ultimately, it was thought, an amendment to the Constitution would be needed to give the city a vote in Congress or change the concept that Congress was the city's legislature. The bill President Nixon approved also authorized establishing a 12-person commission on organization of the District's government. The commission would study the arrangement of the present city government to "determine what changes are necessary" to "promote economy, efficiency, and improved service in the transaction of the public business in the departments, bureaus, agencies, boards, commissions, offices, independent establishments, and instrumentalities of the District of Columbia."

The commission was nicknamed a "Little Hoover Commission," after a commission headed by former President Herbert Hoover that had advised Presidents Truman and Eisenhower on government organization. Although District officials were not enthusiastic about the Little Hoover Commission, they were elated about the provision establishing a nonvoting House delegate – as a first step.

Mayor Washington was initially seen as the leading candidate for the District's first delegate, but in November he announced he would not run. In announcing his decision on November 14, he cited the District's fiscal condition as the reason. He was focused on working with Congress to secure additional funds for the city; he did not want to divert attention to raising funds for an election campaign. He did not endorse anyone for the position, but said, "He should be someone who is committed, who understands the dynamics, who is going to work as a team."

With the mayor out of the running, Councilman Yeldell, chairman of WMATA, became the leading candidate. He had not announced his candidacy, but was seeking financial backing for a run.

On November 30, Yeldell announced his candidacy for delegate while submitting a letter to President Nixon resigning from the city council. He said that home rule would be one of his top priorities as delegate. He had some connections on Capitol Hill, but said, "it makes [no] sense for the District's delegate . . . to march to the Hill boasting of a host of friends in Congress." The District's congressional friends were in the minority. "Look at our schools, our housing, our unemployment, our public services, our courts, our crime rate, our revenue . . . and I'm sure you will agree with me that the District needs many, many new friends."

His resignation from the city council automatically removed him WMATA's board of directors. On December 3, Councilman Moore took over for Yeldell on WMATA's board. Because the District had the chairmanship in 1970, the board elected Councilman Moore its chairman for the remainder of the year.

[Prince, Richard E., "D.C. Delegate Bill Signed by Nixon," *The Washington Post and Times Herald*, September 23, 1970; Grigg, William, "District if Cool to Prospect Of Little Hoover Commission," *The Sunday Star*, September 13, 1970; Kalb, Barry, "Mayor Won't Be a Candidate For Delegate, Yeldell to Run," *The Sunday Star*, November 15, 1970; Anders, Michael, "Yeldell Quits Council, Enters Delegate Race," *The Evening Star*, November 30, 1970; Grigg, William, "Moore Follows Yeldell As WMATA Chairman," *The Evening Star*, December 3, 1970]

### **The 1970 Lame Duck Session**

Congress returned to Washington for a lame duck session on November 16, the first held since the early 1950s. Most of the members who had lost their reelection bids returned to complete the 91<sup>st</sup> Congress. A few who lost or retired resigned to allow their successors to fill out the term, thus gaining credit toward seniority in the next Congress.

The Washington area had its share of pending bills, but overall, Congress would be focused on other issues. The *Star* listed the top issues:

Senators first plan to tackle three difficult issues left hanging when they adjourned in October: The women's rights constitutional amendment, the farm bill and a labor-sought industrial job safety measures.

In the House, a restrictive trade bill and a manpower training bill which includes a big program of public service jobs are expected to trigger floor fights.

With the session expected to last about 5 weeks, Congress would have time to consider the District freeway-subway impasse, but it was not most urgent business. [Bullen, Dana, "Party Line Battles Set In Congress," *The Sunday Star*, November 15, 1970]

On November 13, 1970, the District of Columbia and the Virginia State Highway Commission published notice of plans to hold a joint DESIGN PUBLIC HEARING on proposed Interstate 266 (capitalization in the original) in the Department of Commerce Auditorium on 14<sup>th</sup> Street, NW., on December 14 beginning at 10 a.m. and continuing into the evening:

The hearing will be conducted to consider alternative designs for proposed Interstate Route 266 between a point near the intersection of Canal Road and MacArthur Boulevard in Washington, D.C., and a connection with the proposed Interstate Route 66 near Lorcom Lane in Arlington, Virginia, including a proposed bridge across the Potomac River in the vicinity of the Three Sisters Islands.

Additional sessions were tentatively scheduled for December 15 and 16 "if necessitated by a larger number of witnesses than can appear on December 14, 1970." [Notice of Joint Design Public Hearing – Proposed Interstate 266, *The Evening Star*, November 13, 1970]

District officials said they would offer two designs for the bridge at the public hearing. One would be the suspended span of 740 feet between piers near the banks that the Commission of Fine Arts had approved. The other would be a more traditional steel box girder bridge supported by three piers, including one in the middle of the Potomac River.

The purpose of the hearing was to receive comments, oral and in writing, on the two designs, but as the *Star* pointed out, "freeway opponents have indicated they will use the session to voice opposition to any bridge." They would argue that the bridge was not needed and would increase air pollution and harm nearby neighborhoods. [Green, Stephen, "District Highway Officials to Offer 2 Plans at 3 Sisters Bridge Hearing," *The Sunday Star*, November 15, 1970]

While the House Rules Committee was deciding the terms of debate on the Committee on Public Works' version of the Federal-Aid Highway Act of 1970, the House District subcommittee headed by Representative Fuqua was considering the Broyhill amendment to the revenue act to withhold the proposed Federal payment of \$120 million to the District, increased by \$15 million from the previous year, until the city complied with Section 23 of the Federal-Aid Highway Act of 1968 or any subsequent legislation mandating freeway construction. On November 23, the subcommittee voted 7 to 3 for the measure.

Representative Gude voted against it. The newly elected Montgomery County Council had urged him to oppose any legislation that would force construction of the North-Central Freeway. The council's telegram to the Congressman stated that the freeway would be "more destructive than beneficial" to the city and its suburbs. The council favored the provision in the Senate's Federal-Aid Highway Act of 1970 that would repeal Section 23 of the 1968 Act. Without mentioning

Chairman Natcher, the telegram asserted that attempts to link Metro funding to highway construction were “unwise and unacceptable.” The telegram added, “This is particularly true in this period when Secretary of Transportation John A. Volpe has called for an 18-month study of this freeway proposal.”

That same day, Representative Gude testified before the Rules Committee in opposition to the District provision in the Federal-Aid Highway Act of 1970 because it required the District to build the North-Central Freeway to the District/Montgomery County line. Given the growing opposition to the Maryland segment, especially in the county, Representative Gude argued that the District provision could result in “Congress . . . directing the construction of a road to nowhere.”

The District revenue authorization bill included provisions to transfer the District’s prison complex in Lorton, Virginia, to Federal control and to renew the city’s authority to borrow money for construction projects. The subcommittee dropped the city’s request to increase its gas tax by a penny from 7 cents to 8 cents. Representative Fuqua explained that the subcommittee rejected the plan because the members thought the gas tax should be the same as in the surrounding jurisdictions in Maryland and Virginia, which charged 7 cents a gallon. [Taaffe, William, “Fight Against Freeway, Councilmen Urge Gude,” *The Evening Star*, November 16, 1970; Green, Stephen, and Grigg, William, “House Panel Oks Bill Tying D.C. Funds to Freeway Action,” *The Evening Star*, November 23, 1970; Moore, Irna, and Eisen Jack, “Build Freeway or Lose Extra Cash, City Told,” *The Washington Post and Times Herald*, November 24, 1970]

In the House, Chairman Kluczynski brought the 1970 Act to the floor on November 25. In his overview of the legislation, he said of Section 129:

Contrary to what some people might say this is not setting a precedent for this kind of action in other States, nor is it an attempt to substitute congressional action for sound engineering judgment. The committee has heard the testimony and received the reports of the District of Columbia and the Department of Transportation over the last few years and is only acting within the responsibility of the Congress toward the District of Columbia. I hope this body will support this section as it has been reported as you did in 1968, because I assure you gentlemen it is the only way your Nation’s Capital will ever have an adequate transportation system.

Because of the limited time available for debate on the House floor under the House Rules resolution, several Representatives who objected to Section 129 submitted comments to be inserted in the record. Representative Emilio Q. Daddario (D-Ct.), an attorney who had won election to the House in 1958 and was serving his final term after losing his bid to become Governor of Connecticut, objected to Section 129. He recalled that in 1960, Congress had rejected the 1959 Mass Transportation Survey, “plans which are similar to those which would be forced upon the people of the District of Columbia under section 129”:

The plans were unacceptable then and are unacceptable now for the very same reasons: high cost, destructiveness, and lack of demonstrated need for added arterial highway capacity.

He said that rarely had legislation “brought a more vehement and united outburst” from District residents. Forcing these freeways on the people of the District, “without fair and proper hearing, is to deny them the privileges enjoyed by the citizens of the 50 States.”

Representative Edward I. Koch (D-NY), the future Mayor of New York City who was a strong advocate for transit and bicycling while in Congress, mentioned the opposition to the freeways covered by Section 129. He preferred to delete the provision from the bill but offered a *reductio ad absurdum* solution:

I would suggest that if this body insists on retaining it, fairness and consistency demand that we add a provision . . . stating that all expenditures authorized by the Federal Highway Act will be suspended until construction on the District of Columbia system commences. [Federal Aid Highway Act of 1970, *Congressional Record-House*, November 25, 1970, pages 38938, 38958-38959, 38962-38963]

Representative Donald M. Fraser of Minnesota (Democratic-Farmer-Labor), a member of the District of Columbia Committee, introduced an amendment to delete Section 129. The amendment initiated a lengthy discussion. Despite opposition within the city, he said, “now comes Congress saying, ‘Well, the City Council does not know what they are doing,’ and in effect it says ‘No matter what they think or how much they know, we know best what is good for . . . the 700,000 or 800,000 people who live in the District of Columbia.’” At some point, “the District of Columbia ought to be given a voice in what happens to this city.”

This was not the first Congress, he said, that had overruled the city government. The District had complied with Section 23 of the 1968 Act “because we blackjacked them into it” by withholding funds for the subway. “Now we want to add another injustice to this unfortunate relationship between the Congress and the District.”

Another member of the District committee, Representative Brock Adams said, “I cannot stress how unhappy I am. I would use the word ‘bitter’ but probably that is not the proper word to use, but somehow I must manifest my terrible unhappiness over what has happened with this bill.”

He recalled the compromise that allowed release of the subway funds. The city complied and the funds were released. “I stand with it as I have stood with it on platforms in this city where my skin has been taken off in strips because many people of the District have said, ‘We do not want any more highways under any circumstances.’”

Regarding the North-Central Freeway, the city had studied the project in accordance with the compromise and concluded that it should not be built and that the Industrial Highway should be constructed instead. He explained the key difference between the North-Central Freeway and the Industrial Highway:

The difference in the two areas where you build the freeway, one goes through industrial-type lands, and lands that are not homes, and the other goes through a series of homes in the north end. This goes clear back to 1960. This route was shifted from one side of

Rock Creek over to the other side of Rock Creek, and it has been shifted back and forth for years and years.

Now, he had just learned that the District Appropriations Committee was working on a bill that would prohibit appropriation of any funds to the District unless the city complies with the 1968 Act or the present provision:

I just plead with you in the name of common decency that we keep our word as we have required the government of the District of Columbia to keep its word.

If Congress did not approve the Fraser amendment, “we will simply have broken our word” that was given under the previous compromise.

Representative McCarthy concurred, saying:

If you can mandate the construction of controversial highways in the District of Columbia, then you can do it in any State in the Union and in Puerto Rico.

District residents had made their views clear “with virtual unanimity.” He concluded that, “I think it is a basically undemocratic thing for us to force these highways on people who have said they do not want them.”

Chairman Kluczynski responded that the Committee on Public Works “has no intention of dictating to the various States what kind of a highway program it should have or where individual routes should be located.” Congress acted only after the courts had declared that the planned freeways violated the 1893 District highway code. Because only Congress could change the code, Congress acted in 1968 to require the District to build a freeway system that had been developed over a 20-year period and included in the 1968 ICE. “It was sound and was the product of local study and determination. It was not a creature of the Congress as some would have you believe.”

He would not want Congress to dictate highway locations in Illinois or any other State. “But in this case, in the District of Columbia . . . the Congress has the right and the Congress should designate the highways.” He did not mention the Constitution, but he was saying that it gave Congress a unique legislative role in the District that it did not have in the States.

Representative Gude and his Maryland colleague, Representative Hogan, took opposite positions on the Fraser amendment. Representative Gude pointed out that Maryland officials were in doubt about the North-Central Freeway:

At this time the State of Maryland and local government officials in Montgomery County have indicated that they are in doubt or in opposition to building a North Central Freeway. For us to order the immediate construction of a highway to the border of a jurisdiction that has indicated it does not intend to build it is ludicrous.

After discussing the history of the North-Central Freeway, he concluded that for Congress to order its construction in the District would be “sheer folly.”

Representative Hogan appreciated the provision in the bill providing for reconstruction of the Baltimore-Washington Parkway to meet Interstate standards as well as Section 129, which required construction of the North-Central Freeway:

If at this time we change the route of the North Central Freeway, as some are urging, further delays will result. The right-of-way has already been acquired for the proposed route, whereas any change of route will result in additional costs for this purpose. We can probably assume that any alternate route will also be objected to by elements of the community.

Chairman Natcher wanted to make clear to his colleagues that his committee supported a freeway system and a rapid rail transit system in the Nation's capital. He said, "we not only believe this to be true, but are willing to make any and all recommendations which will bring about a proper rapid rail transit system and freeway system for the District of Columbia." He summarized the years of effort to secure this outcome and cited editorial support from the city's newspapers. The Chamber of Commerce and the Board of Trade, he said, supported congressional intervention:

The majority of the people who pay the taxes necessary to operate our Capital City are for a balanced system of transportation. Those people who love and respect this city want this impasse settled and they want it settled now. They do not agree with the statement made several years ago by one of the dissidents that there shall be no more exists [sic] or entrances into our city.

The House defeated the Fraser amendment, 26 to 101. Later that day, the House approved the committee bill, including Section 129, without a recorded vote. A conference committee would be convened to resolve differences between the House and Senate bills. [pages 38978-38990, 38997]

Even as the House approved its version of the Federal-Aid Highway Act of 1970, Maryland opposition to the North-Central Freeway was growing. Governor Mandel wrote to Representative Gude, who had requested clarification of the State's position:

I have no intention to force an expensive improvement on an unwilling community, but before we abandon the North Central Freeway, we should be very certain that there is a real consensus in opposition . . . and that the local spokesmen really appreciate . . . the utter finality of such an action.

At the same time, Delegate Martin S. Becker (D), chairman of the Montgomery County delegation to the Maryland General Assembly, had written to Chairman Natcher. "Our delegation will exert all of its efforts to assure that [the North-Central Freeway] will become a 'no thru street' at the District of Columbia line." Becker urged Chairman Natcher to drop his efforts to force the city to build the freeway. [Eisen, Jack, "House Votes for Disputed N. Freeway," *The Washington Post and Times Herald*, November 26, 1970]

On November 28, *Post* editors took a dim view of congressional actions in an editorial titled "Making the Colony Step and Fetch." The House District Subcommittee, which had increased

the Federal payment by \$15 million, had “reckoned in its wisdom that, sure enough, we probably are entitled to a bit of extra change for the last six months of the budget – that is, ah, if we’re willing to do a few extra favors for it.”

The question was how many favors “because there are so many congressional overseers with so many pet projects.” In return for the additional \$15 million, all the city had to do was build all the freeways in Section 23 of the Federal-Aid Highway Act of 1968 and whatever ended up in the 1970 Act; abandon the penny gas tax increase but impose a 2 percent sales tax on linen services; turn over its Lorton prison complex in Virginia against its wishes; and so on.

While the House and Senate District authorizing committees fought over “the hostages and paraphernalia,” other committees were at work. Of course, the House Committee on Public Works was trying to force the city to build the North-Central Freeway, despite the city’s preference for an Industrial Highway in the New York Avenue corridor and growing opposition in Montgomery County. Meanwhile, Chairman Natcher’s District appropriations subcommittee was withholding Metro funds until the city built all the roads required by the 1968 Act. The Senate opposed the measures favored by the two House committees “but it hasn’t succeeded in getting that subway money for us either.” The editorial concluded:

All this is simply to give you a little peek (or is it pique?) at why the coffer’s a little hollow along about now. It seems like an awful lot of exercise for very little fiscal fitness. [“Making the Colony Step and Fetch,” *The Washington Post and Times Herald*, November 28, 1970]

On December 10, Jack Eisen reported that the House insistence on retaining Section 129 was weakening in conference. After five negotiating sessions, some conferees had told him “that negotiations on the national measure produced enough victories for the House version where its conferees became willing to give up their insistence on an early start of construction on the North-Central.” In return, some Senate conferees (“but not all,” Eisen emphasized) were willing to give up their efforts to retain the provision in the Senate bill repealing Section 23 of the 1968 Act. [Eisen, Jack, “Lawmakers Reported Wavering on Freeway,” *The Washington Post and Times Herald*, December 10, 1970]

As Chairman Natcher had mentioned, the District’s business community supported the freeway network. On December 10, the Federal City Council assembled businessmen representing the Board of Trade, Board of Realtors, D.C. Chamber of Commerce, the Washington Savings and Loan League, and many others to support the proposed freeways, including the North-Central Freeway. The *Post* explained:

They acted yesterday after it had been learned that a compromise may be reached on Capitol Hill that would delay a congressional order to build the North Central Freeway at least another year . . . while additional studies are made . . . .

The House Appropriations Committee, at Natcher’s request, is now refusing to grant \$34.2 million to continue building the subway system until the city complies with present highway legislation.



The business groups, which had supported freeways and rail rapid transit since the mid-1950s, blamed Mayor Washington and the city council for stalling freeway construction and thereby blocking progress on the subway:

The businessmen said they support both the pending House version of the Highway Act of 1970, which would require construction of the freeways, and a rider placed in the D.C. revenue bill Nov. 23 that would withhold \$15 million in city revenue until it complies fully with present and pending highway legislation. [McCombs, Philip A., "Merchants Push City Freeways," *The Washington Post and Times Herald*, December 11, 1970]

(The article in the *Post* about the event prompted Merle J. Van Horne of Americans for Democratic Action to write a letter to the editor. This coalition of business representatives "has consistently sought to inflict the monstrous William H. Natcher Memorial Freeway System on an unwilling city." In view of polls and reactions at public hearings showing "clear and massive opposition," the businesses "cannot plead ignorance or misunderstanding." Any attempt to "inflict such a profound environmental and social change on any city in the face of overwhelming citizen opposition is a despotic act of mind-boggling enormity." It is "more cynically destructive of public faith in the American system than a hundred flag-burnings." Their actions, accordingly, could be attributed only "to malevolence and greed." They "have clearly established themselves as an alien, hostile, pernicious force in this city."

(Mr. Van Horne was one of those arrested on August 9, 1969, during the protest of the city council's approval of the Three Sisters Bridge to secure release of the Metro matching funds. At the request of Chairman Hahn, the U.S. Attorney's office dropped unlawful entry charges on October 9, 1969, in the cases of 14 of those arrested, including Van Horne. [Van Horne, Merle J., "The Freeway Struggle," Letters to the Editor, *The Washington Post and Times Herald*, December 17, 1970; Curry, William N., "Illegal Entry Charges on 14 Dropped," *The Washington Post and Times Herald*, October 10, 1969])

The following day, December 11, the House District Committee dropped the provisions linking the Federal payment for the city to construction of freeways and transfer of the city's prison complex in Lorton to the Federal Government. Committee leaders decided to drop the measures when a coalition of liberals and conservatives, which one committee member called "an unholy alliance," threatened to defeat the bill:

A group of liberal, Northern Democrats and Republicans on the District Committee planned to fight the freeway and Lorton provisions on the House floor. The freeway section, sponsored by Rep. Joel T. Broyhill (R-Va.), would prevent the city from receiving the additional \$15 million until it agreed to build all congressionally ordered freeways, including the North Central freeway called for in the House version of the 1970 Highway Act.

Representative Brock Adams (D-Wash.), a leader of the liberal group, planned to offer a substitute bill that would not include the freeway and Lorton sections.

Conservatives opposed a provision, strongly supported by Committee Chairman McMillan, authorizing a Federal subsidy of up to \$62 million for Georgetown and George Washington Universities' "troubled medical and dental schools." Representative Abernethy, "usually a powerful member of the Committee's Southern conservative leadership," strongly opposed the provision:

Abernethy reportedly offered to support a substitute bill that did not contain Lorton, the freeway provision or the medical school section . . . . According to Broyhill, it began to seem that the bill contained so many controversial sections that a number of congressmen were willing to "burn down the whole barn just to get at their particular rat."

When House members of the conference committee on the Federal-Aid Highway Act of 1970 decided on December 9 to substitute a study for their prior insistence on construction of the North Central Freeway, Representative Broyhill offered to withdraw his amendment. Given the conferees' compromise, withholding \$15 million, he said, "would have been superfluous." Once Chairman McMillan agreed to drop the Lorton provision, Broyhill said, "there would be no opportunity for a general indictment of the bill from both liberals and conservatives." He expected that agreement by the conference committee on the Federal-Aid Highway Act of 1970 would result in release \$34.2 million for the subway, but Chairman Natcher declined to comment. [Moore, Irna, "Roads, Lorton to be Deleted in Money Bill," *The Washington Post and Times Herald*, December 12, 1970]

The provision, Title VIII ("Interstate Routes and the Federal Payment") remained in the District revenue bill until it reached the House floor on December 14. During the debate, Representative Broyhill explained that he had no desire to withhold funds from the District. He had introduced the measure to ensure District compliance with Section 23 of the Federal-Aid Highway Act of 1968 and Section 129 of the 1970 Act, but now a compromise appeared to have been reached by conferees on the 1970 Act that would bring the District into compliance with the law. "If they are in compliance with the law, then this title of the bill becomes unnecessary." In accordance with the agreement reached with Chairman McMillan, the House dropped Title VIII before passing the District of Columbia Revenue Act of 1970. [District of Columbia Revenue Act of 1970, *Congressional Record-House*, December 14, 1970, pages 41399, 41403-41404, 41409, 41415]

### **Design Hearing on the Three Sisters Bridge**

In compliance with Judge Sirica's ruling, the District, in cooperation with the Virginia Highway Department, held 3 days of hearings on the Three Sisters Bridge, which would carry I-266 traffic, including the trucks barred from the I-66/Theodore Roosevelt Bridge, across the Potomac River. The District indicated that 107 witnesses had been scheduled for the marathon sessions scheduled to run from 10 a.m. to 10 p.m. [Eisen, Jack, "3 Sisters 'Trial' Will Start Today," *The Washington Post and Times Herald*, December 14, 1970]

Even before the hearing on the Three Sisters Bridge, ECTC protested the appointment of Julian R. Dugas, the District's Director of Economic Development, as the hearing officer. ECTC argued that the District's 1967 reorganization plan required the mayor and city council to conduct

hearings on bridges and freeways. That meant, ECTC argued, personal participation by the mayor and the city council, not delegation to a representative. [“Group Raps Hearing On 3 Sisters Bridge,” *The Evening Star*, February 8, 1970]

Jack Eisen reported that in the 600-seat Commerce Department Auditorium, the hearing “moved briskly, sometimes as much as 45 minutes ahead of schedule.” He characterized the day’s presentations:

Many witnesses, as expected, expanded their statements into arguments on whether the Georgetown-to-Arlington span should be built. There were 14 presentations in favor, 28 against.

Generally, support came from business, professional and economic development groups and opposition from citizen and environmental protection organizations. However, a downtown organization of small businessmen was among the foes.

Leslie Logan, president of Arlingtonians for Preservation of the Potomac Palisades, was one of the first witnesses. He challenged the legality of the hearings, arguing that they were being held too long after the location hearing in 1964. Since then, Section 4(f) had been enacted to preserve the very resources the bridge threatened. He said it was ridiculous to “erase 31.6 acres of national parkland on the Virginia side . . . and impair the remaining acreage of the Spout Run Parkway.”

The hearing before a crowd that varied during the day and night from about 75 to 150 people was orderly for the most part. What little drama took place followed the decision by Dugas not to let William Buchanan of the Foggy Bottom Association testify when he arrived for his scheduled 11:35 appearance. Because the hearing was ahead of schedule, Dugas had called Buchanan’s name earlier and passed over him:

Sammie A. Abbott . . . loudly protested Dugas’ refusal to hear opposition testimony by William Buchanan . . . .

He yelled, “We’ll get to you, Dugas.” Four guards approached to warn Abbott to remain silent. He did so, but sat quietly with his arms folded.

Buchanan was called to speak a half hour later:

Both he and Abbott were among several who insisted that the hearing and the manner of its conduct were illegal. They claimed a hearing is needed on whether and where the project should be built, and they said they expect the U.S. Court of Appeals to uphold that view in a forthcoming appeal

Robert M. Kennan, transportation chairman of the Committee of 100 on the Federal City College, urged Dugas to call off the hearing on these grounds.

Dugas refused, having previously cited Judge Sirica’s ruling:

After an extended trial, Sirica ordered construction of the bridge piers suspended pending a design hearing but said that Congress in its 1968 law took the question of whether to build a bridge out of the court's hands.

Only one neutral presentation, by Arthur H. Fawcett, Jr., of the Potomac Boating Club, concerned the design of the Three Sisters Bridge:

If the bridge must be built, Fawcett said, the club wants the single overwater arch that has been approved by the Fine Arts Commission, omitting a mid-river pier he called a hazard to boat racing crews.

The plan that includes the midriver pier drew no support. Several opponents of the bridge said the arched design is attractive – one called it a work of art – but claimed it is unnecessary.

The safety of the bridge design came up during testimony by James O. Granum, president of the National Capital Section of American Society of Civil Engineers, which supported the project. Director Airis asked him if he had any concerns about the safety of the approved design. Granum replied, “No, sir.”

ECTC's John Carter was the day's 42<sup>nd</sup> and final witness. He predicted that “turmoil and uproar” would occur if the bridge were built. [Eisen, Jack, “Bridge Hearing Called Illegal,” *The Washington Post and Times Herald*, December 15, 1970; Grigg, William, “Legality of Hearing On Span Disputed,” *The Evening Star*, December 14, 1970]

On December 15, the second day of the hearing, Dugas reminded witnesses that under Judge Sirica's ruling, design of the bridge was the only issue to be decided. Judge Sirica had found that under Section 23 of the Federal-Aid Highway Act of 1968, whether to build the bridge was a settled point. As a result, the testimony thus far relating to whether the bridge was needed would prove useless to District and Virginia highway officials as they consider comments on design issues before advising FHWA and reporting their joint decision to the court.

Nevertheless, as the *Post* put it, the majority of the 38 witnesses “charged yesterday that the Three Sisters Bridge project is unnecessary, will cause pollution and disrupt neighborhood life in Washington.” Most of these opponents also contended that the hearing was illegal because Mayor Washington and the city council did not conduct them in person. By the time the hearing ended at midnight, another seven witnesses had supported the bridge while four did not take a position.

Two former members of the city council were among the witnesses who ignored those words of warning. Polly Shackleton said the council had “lost its soul” when it gave in to Congress by approving the Three Sisters Bridge against its better judgment. “The mayor and Council have ceased to be the heartbeat of the citizens of the District.” Most opposed the bridge, but in reversing course had lost the city council's credibility. Instead of discussing design of the bridge, she said the city should forget about building it.

The Reverend Fauntroy, a candidate for District delegate to Congress, agreed. “This bridge will function only if we pave the whole city. No design of a Three Sisters Bridge can increase the capacity of Arlington or D.C. streets to efficiently carry more traffic.” In short, “Design cannot fit a bridge where it should not be.”

The Reverend Channing Phillips of the District Democratic Central Committee, also a candidate for delegate, said the city council had approved the bridge only because of congressional “blackmail.” Mayor Washington “should take leadership of the District government on this vital issue, stop freeway construction and stop these hearings.” When Dugas asked if he had a preference on the bridge’s design, the Reverend Phillips said he preferred the view of the river and three small islands without a bridge.

A third candidate for delegate, Democrat George Mitchell, said the money that would be used for the bridge “should be spent on people who are going hungry instead of getting commuters in and out of the city faster.”

Former NCPC Chairman Rowe opposed the bridge. It would, she said, encourage trucks to go through the city instead of circling it on the Capital Beltway. The result would be more freeways that would “make North Central Freeway look like a community blessing.”

Harold O. Miller, vice chairman of the Fairfax County Board of Supervisors in Virginia, which supported I-66, pointed out that the Arlington County Board, which opposed I-66, might reopen discussions to cancel the Interstate in the county. “We shouldn’t proceed until we see if a road is going to be attached to it.”

The supportive witnesses cited the benefits of the bridge to Washington economic development. Supporters included representatives of Downtown Progress, the Institute of Traffic Engineers, Loudoun County Board of Supervisors in Virginia, the Virginia Automobile Dealers Association, and the D.C. Metropolitan Subcontractors Association. General Quesada of the Dulles International Airport Development Commission, who had helped pick the location for the new airport, said that a key factor in selecting the site was the expectation that the Three Sisters Bridge would be built. It would allow traffic to drive between downtown and the airport in about 30 minutes.

During the third day of hearings, most witnesses again addressed whether to build the bridge, not its design. Lawrence N. Bloomberg of the Palisades Citizens Association said the bridge would “distract from an open and uncluttered natural view of the Potomac valley and will increase and aggravate the pollution problems now facing Washington and its environs.”

By the time the hearings ended on December 16 at 3:40 p.m., Dugas had heard 130 witnesses. What the *Post* characterized as a “lopsided majority” of the witnesses recommended dropping the Three Sisters Bridge project. Many also questioned the legality of the hearings.

The *Post* reported that Federal rules for design hearings did not require clearance by the mayor or city council. District highway officials could report directly to FHWA. “Airis told a reporter, however, that he plans to clear his recommendations with those officials before transmitting them

to Charles E. Hall, the road bureau's D.C. division engineer." Division Engineer Hall had attended most of the sessions.

[McCombs, Philip, "Hearing for 3 Sisters Soan Develops Into Verbal Battle," *The Washington Post and Times Herald*, December 16, 1970; Grigg, William, "Ex-Councilmen Regret Vote for 3 Sisters Span," *The Evening Star*; "3 Sisters Span Called Stimulant for Dulles," *The Evening Star*, December 16, 1970; "Hearing End On Design For Bridge," *The Washington Post and Times Herald*, December 17, 1970]

### **Approving the Federal-Aid Highway Act of 1970**

Although the House-Senate conferees on the Federal-Aid Highway Act of 1970 had agreed on a study of the North-Central Freeway, instead of construction, one of the unwritten rules of conference committees is that nothing is final until everything is final. On that basis, despite earlier signs of agreement, conferees abruptly adjourned on December 14, unable to resolve differences related to the North-Central Freeway.

In return for agreeing to the study, House conferees asked the Senate conferees to delete the provision in their bill repealing Section 23 of the 1968 Act. The Senators said they would delete the provision if the House would agree to leave all language about District freeways out of the bill. If agreed to, the Senate-proposed compromise would leave the situation where it was, with the city refusing to build the freeway, a study underway on the North-Central Freeway, and Chairman Natcher withholding subway matching funds. [Green, Stephen, "Conferees Snagged On Freeway, Quit," *The Evening Star*, December 15, 1970]

On December 16, after the conferees met again, Chairman Fallon told reporters, "we're still hung up" on the District provisions. Senator Cooper said the Senate conferees were united in offering to drop its repeal of Section 23 if the House would drop the order for construction of the North-Central Freeway. The House was insistent on including a 1-year study of freeway, but the Senate conferees wanted no District of Columbia provisions in the conference report. That would leave Section 23 of the 1968 Act in place. "We've had enough studies," Senator Cooper said of the House offer of the new study. ["Conferees Stalls on Freeway," *The Washington Post and Times Herald*, December 17, 1970]

On December 17, House and Senate conferees completed work on the conference report for the 1970 Act. Section 129 now read:

#### District of Columbia

Sec. 129 (a) In the case of the following routes on the Interstate System authorized for construction by section 23 of the Federal-aid Highway Act of 1968, the government of the District of Columbia and the secretary of Transportation shall restudy such projects and report to Congress not later than 12 months after the date of enactment of this subsection their recommendations with respect to such projects, including any alternative routes or plans:

- (1) East Leg of the Inner Loop, beginning at Bladensburg Road, I-295 (section C4.1 to C6),
  - (2) North Central and Northeast Freeways, I-95 (section C7 to C13) and I-70S (section C1 to C2).
- (b) The government of the District of Columbia and the Secretary of Transportation shall study the project for the North Leg of the Inner Loop from point A3.3 on I-66 to point C7) on I-95, as designated in the “1968 Estimate of the Cost of Completion of the National System of Interstate and Defense Highways in the District of Columbia”, and shall report to Congress not later than 12 months after the date of enactment of this subsection their recommendations with respect to such project including any recommended alternative routes or plans.

Under the compromise, the South Leg of the Inner Loop remained designated as part of the Interstate System. [Federal-Aid Highway Act of 1970, Conference Report, U.S. House of Representatives, 91<sup>st</sup> Congress, 2d Session, House Report No. 91-1780, page 54]

The final bill also retained the authorization of \$65 million to reconstruct the Baltimore-Washington Parkway to Interstate design standards. Under Section 146, no funds could be expended until the Secretary of the Interior entered into an agreement with Maryland highway officials to convey the parkway to the State “without monetary consideration” and the State placed the parkway on the Federal-aid primary system under State responsibility.

The following day, the House approved the conference report, 319 to 11. The floor debate on the report did not include discussion of the District freeway provision. [Conference Report on H.R. 19504, Federal-Aid Highway Act of 1970, *Congressional Record-House*, December 18, 1970, pages 42514-42518]

The Senate, considering the bill on December 19, did discuss the District’s freeway controversies. Reviewing the conference report, Chairman Randolph said that the “most controversial sections” of the House and Senate versions of the 1970 Act concerned the construction of Interstate highways in the District of Columbia. Reconciling the two provisions “occupied considerable time and discussion”:

Behind the original positions of both Houses were strongly held convictions: the Senate – that the District of Columbia should be treated as a State, as the highway law provides, in determining the construction of highways; the House – that nonconstruction in the District of Columbia has seriously delayed completion of the Interstate System.

The conference decision, I believe, was the only one we could reach to avoid an impasse that would have imperiled the national highway program. It is a reasonable compromise in that there is no mandating of freeway construction in the city. The studies which the bill directs in an effort to determine the best way to resolve this very difficult program [sic] could be carried on without specific authorization.

He endorsed the Baltimore-Washington Parkway provision because the parkway “carries a heavy load of traffic, far beyond that which it was originally designed to accommodate” and “is in urgent need of improvement.”

Senator Cooper discussed some of the controversial measures in the conference report, including the question of the District’s highways:

I still consider, as I have for years, that the Congress should not attempt to lay out a highway system in the District of Columbia. On our side, we strove diligently to bring some order to this problem; to put full responsibility back where it belongs, with officials and people of the District of Columbia. We held out as long as we could for the Senate provision, to repeal section 23 of the 1968 act. There was no sign by the House of accepting the Senate provision, and we have ended our work. Perhaps the courts will now look at the proposed District of Columbia highway system. We cannot do it legislatively with any success.

He recalled that he had voted against the 1968 Act because of Section 23. The Senate provision was “especially important” because the House Public Works Committee “went even further than in 1968 in attempting to require the construction of interstate highways within the District – and without the fundamental provision which we were able to attach in 1968, so often overlooked, that all construction must be carried out according to all applicable provisions of title 23 of the United States Code.” The conference report rejected “any mandate for any new highway construction, or for designation or removal of designation of interstate routes” in the District:

The conference agreed to no more than another study by the District of Columbia government and the Department of Transportation of the North Central Freeway, and also of the East and the North Legs. Of course, these routes have been studied before, and a study of the North Central Freeway is now being carried out, and the administration supported the Senate position in this matter.

He introduced a letter dated December 15 that he had received from Secretary Volpe, who said he supported a balanced transportation program for the District, including necessary freeway projects and the subway:

I would prefer that specific highway projects be planned, designed, and constructed in accordance with the same procedures as apply to other cities and states under the interstate program.

If Congress “in its wisdom” repeals Section 23 of the 1968, Secretary Volpe said:

I would nonetheless assure the Committee that work on the construction of the Three Sisters Bridge will proceed as expeditiously as possible within the requirements of the law and the decisions of the courts – both because this Department and the District government are already committed to this project and because I believe it is necessary for a balanced transportation system for the area.



If Congress did not repeal Section 23, Secretary Volpe hoped that Congress would not require any further construction or studies. “As you know, my Department is already engaged in a 16-month study of the North Central Freeway which, again, will continue no matter what the Conference action is because I believe such a study to be needed.”

Senator Howard H. Baker, Jr. (R-Tn.) referred to the District provision as “a highly volatile issue, I dare say as emotional as almost any other issue, if not any issue that has been before the Senate in the past several days.” It was, however, worked out in accordance with “an old Tennessee adage that if no one is really happy with it, therefore it must be very good.”

The Senate approved the conference report without a recorded vote. [Federal-Aid Highway Act of 1970—Conference Report, *Congressional Record-Senate*, December 19, 1970, pages 42714-42723]

President Nixon signed the bill on December 31, 1970, without comment or a ceremony (P.L. 91-605). Secretary Volpe agreed with many observers who considered it the most significant highway legislation since the Federal-Aid Highway Act of 1956. He praised its extension of the Highway Trust Fund, the assurance it provided that the 42,500-mile Interstate System would be completed within the decade, and extension of the Highway Trust Fund revenue to “the very important areas of highway safety and access roads to national forests and public lands.” He added, “It gives the Department of Transportation and the Federal Highway Administration many of the tools we need to tackle the growing social challenges of our nation, especially in our urban centers.” He concluded:

The Federal-Aid Highway Act of 1970, in short, is designed to give Americans better and safer transportation in a manner that will not degrade our environment or threaten our health and welfare.

It indicates a strong awareness of the nation’s transportation needs and demonstrates an ability to approach them in a sane and reasonable manner.

Secretary Volpe did not mention the provision on District freeways, but influential columnist Tom Wicker of *The New York Times* took note. The “magnificent American interstate system” was now “nearing completion”:

On any rational timetable, this is about 10 years behind time, since these great highways essentially were the transportation system most required for the Forties and Fifties. Consequently, the nation also is running 10 or more years behind in developing the modern urban transit and rapid intercity transit systems that are the next necessary stage in American transportation.

Standing against this evolution was “a political juggernaut” that had formed during the Interstate years, namely the “highway lobby,” a phrase he put in quotes, and said it was “a shorthand way to describe the conglomerate of industrial, commercial, construction and political interests that have a big stake in building highways,” despite “a steady building of consumer resistance.” That resistance was nowhere more evident than in and around Washington:

The issue here ranges a high proportion of the voteless and mostly black citizens of the District of Columbia against the white Congressional masters of the District, most of whom represent largely white suburban or rural areas.

In 1969, Wicker continued, Congress had authorized funds for a 98-mile regional subway system, but the House District appropriations committee forced through legislation to force the city to build the freeways:

No one, for instance, has ever demonstrated a clear need for the Three Sisters Bridge over the Potomac to Virginia – the eighth such bridge in this area – but as a condition of letting subway construction begin, the House group forced the District to begin building the bridge. It also insisted on a route called the North Central Freeway, running through the inner city to the Maryland suburbs. By every conceivable gauge of public opinion, the people of the District are overwhelmingly opposed to the North Central Freeway.

In 1970, Congress adjourned without appropriating the District's \$34.2-million share of subway construction costs:

That has the effect of holding up the Federal matching grant of \$68-million, whereupon the State of Maryland refused to put up the \$10-million it owed the project. Almost simultaneously, the subway authority announced that due to inflation, higher interest and Congressional delays in providing promised construction money, the estimated cost of the system had risen by \$510 million to \$2.98 billion. And as if that weren't enough, such uncertainties and setbacks mean that there is little hope of selling this year the first batch of \$835 million worth of subway revenue bonds.

Secretary Volpe, "who bailed out the subway last fall with a \$57 million loan from the mass transit fund," was trying to resolve the problem, but the District was going to have to go back to Congress. "And it is clear that the Congressional purse-holders are going to demand final compliance with their highway mandate – building the North-Central Freeway – as the price for financing the subway."

District officials were divided. Some were proposing a commuter payroll tax for area residents, including those in Maryland and Virginia, to pay for the subway, while others, "including downtown merchants' groups, now want to build the freeway and end the fight, however ignominiously." Wicker concluded:

Washington is, of course, easier prey for the highwaymen than most communities, having no real vote. But other cities planning to upgrade their transit systems had better take note. The highway juggernaut is not easily stemmed. [Wicker, Tom, "The Highway Juggernaut," *The New York Times*, January 10, 1971]

### **Metro Wraps Up 1970**

On December 14, the House approved the District Revenue Act with the additional \$15 million in Federal payment without strings. The *Post* described the approval as "an anti-climax" because the House District Committee had dropped the controversial provisions, including Representative

Broyhill's penalty for not complying with Section 23 of the 1968 Act. The *Post* reported an exchange when Representative Abernethy of the District committee talked about the Broyhill provisions that had been dropped:

“We accommodated Broyhill by putting Lorton in this bill, but he chickened out,” Abernethy said. “And he chickened out on the highways. So he’s just a chicken, and he knows it.”

When Broyhill interrupted to protest that he did not chicken out, Abernethy shot back: “Then you copped out.”

This exchange was deleted from the *Congressional Record*. [Moore, Irna, “House Votes D.C. \$15 Million,” *The Washington Post and Times Herald*, December 15, 1970; District of Columbia Revenue Act of 1970, *Congressional Record-House*, December 14, 1970, pages 41380-41418]

The bill would now go to a House-Senate conference to resolve differences. Conferees completed work on December 19, including a compromise on the Federal payment. The Senate had voted to calculate the payment to equal 30 percent of the District general fund revenue derived from taxes, charges, and miscellaneous receipts. This calculation would have resulted in a payment of \$132 million in FY 1971. The House had rejected the percentage idea and authorized a flat \$120 million, an increase of \$15 million over FY 1970. Conferees agreed on a flat payment of \$126 million, for an additional \$21 million:

It is the position of the managers on the part of the House that the Federal payment authorization provided in the conference substitute is sufficient to cover any expense to the District of Columbia government which may accrue as a result of salary increases for D.C. government employees during the present fiscal year. [District of Columbia Revenue Act of 1970, Conference Report, U.S. House of Representatives, 91<sup>st</sup> Congress, 2d Session, Report No. 91-1789, December 19, 1970, page 13]

The House and Senate agreed to the conference report on December 21. President Nixon signed the District of Columbia Revenue Act of 1970 on January 5, 1971 (P.L. 91-650).

Freeway advocates and motorists received good news on December 23 when District highway officials opened the new extension of the Southeast Freeway to the 11<sup>th</sup> Street Bridge across the Anacostia River at 9:30 a.m. Motorists would no longer have to leave the freeway at 8<sup>th</sup> Street, SE., and drive through narrow streets and stop lights to reach the bridge. The extension was the first part of Interchange “C” to open. The last two segments of the interchange were scheduled to open in early 1971, giving motorists a direct connection with the Southeast Freeway on their trips to or from downtown.

Unfortunately, according to the *Star*'s Stephen Green, the city forgot to let motorists know about the opening:

A sign at the beginning of the extension said “Merry Christmas” from the highway department.

Highway department employees stood in the roadway and waved to motorists.

But most drivers just zoomed right by the extension and as usual left the freeway at 8<sup>th</sup> Street SE . . . .

Thomas Airis, highway department director, said that he expected that the extension will be used more in the afternoon rush hour today. “We’ll have to do some missionary work in the next few days,” he added. [Green, Stephen, “Drivers Ignore D.C. Yule Gift,” *The Evening Star*, December 23, 1970]

Although the District’s freeway impasse was causing WMATA problems, that was only one of the problems Metro construction was facing as the year ended.

The governmentwide supplemental appropriations act was in conference. The Senate had completed work on its bill on December 14, including a unanimous vote to include \$34.2 million for the District’s share of Metro construction. However, on December 17, the conferees agreed to delete the \$34.2 million the Senate had approved. Chairman Byrd told reporters, “We just couldn’t prevail. There was just no way of persuading the House.”

As news accounts explained, the decision would not halt subway construction, thanks mainly to Secretary Volpe’s loan that allowed WMATA to continue about \$100 million in construction contracts. However, it would affect new contracts in 1971, might cause local jurisdictions to withhold their contributions to WMATA, and raise doubts among potential investors when WMATA began issuing bonds to support construction. WMATA, reporters suggested, would have to delay the \$105 million bond sale planned for the spring. [“Hill Rejects \$24 Million Metro Fund,” *The Washington Post and Times Herald*, December 18, 1970; “Congress Tightens Grip On D.C. Subway Funds,” *The Evening Star*, December 18, 1970]

Knowing that nothing is final until everything is final, *Star* editors appealed “to the conferees to have another go at this dilemma before it’s too late.” They acknowledged Chairman Natcher’s dissatisfaction with the pace of freeway development in the city. “And indeed, the transit money had been placed in even greater political jeopardy by a recent Senate attempt to strike any reference to District freeways from national highway legislation.” The editors hoped that before the conference report was drafted, conferees would reconsider in view of the compromise language another conference had adopted for the Federal-Aid Highway Act of 1970. The editors agreed with Chairman Natcher about the need for the freeways, “but it is amply clear that holding the transit funds hostage will not advance that goal.” [“Natcher’s Choice,” *The Evening Star*, December 19, 1970]

Editors at the *Post* were even more blunt, saying Congress “has, in effect, doublecrossed the two million people who live in the suburbs of this city and has seriously jeopardized the future of rapid transit in the whole area.” Congress had been “hornswaggled [sic] by Representative Natcher and his friends, a band of men who are so angry about the freeway situation here that they are willing to dishonor commitments and themselves and Congress in order to demonstrate their power.” True, Congress was providing the Federal funds for Metro, but not the other part of its commitment in the form of the District matching funds. It withheld the funds “because a

group of spiteful men can find no other way in which to impose its wishes on the unrepresented citizens of the Nation's Capital." ["Default on the Subway," *The Washington Post and Times Herald*, December 20, 1970]

Conferees did not reconsider; the matching funds were not restored. President Nixon signed the Supplemental Appropriations, 1971, on January 8, 1971 (P.L. 91-665).

With agreement of conferees on the Federal-Aid Highway Act of 1970 to include a study of the North-Central Freeway, Representative Broyhill said the District would be in compliance with Section 23 of the 1968 Act and Section 129 of the 1970 Act. Chairman Natcher refused to comment.

The uncertainty prompted Maryland officials to say on December 19 that they would hold up the State's \$10 million contribution, due January 2, 1971, for Metro construction until they were certain Congress would release the District's matching funds. Governor Mandel said the conferees acted "at a very inappropriate time." He explained, "Maryland has an obligation and intends to fulfill its commitment to mass transit but before we proceed with such a huge outlay we want to get concrete assurances from the federal government that its money will be forthcoming."

As for the optimism about the 1970 Act compromise, Comptroller Goldstein said, "We've heard that story before and I don't want to take any more chances." [Rowland, James B., and Green, Stephen, "Maryland to Tie Metro Fund To Release of District Share," *The Sunday Star*, December 20, 1970]

On December 29, Goldstein announced that the State would not provide \$10 million to Montgomery and Prince George's County for their Metro share. Goldstein said congressional action in holding up the District's share raised concerns about the viability of Metro; he feared that the two States might be asked to pay the District's share.

As Tom Wicker had stated, the estimated cost of Metro had increased 29 percent to nearly \$3 billion. This change was revealed with release on December 7 of the report of General Graham's testimony in a closed hearing on November 24 before Chairman Natcher's subcommittee.

General Graham testified that the uncertainty about funding was causing planning problems:

Because of the uncertainties with regard to our funding, the initial sale of revenue bonds next year has been seriously jeopardized. In fact, we may find it impossible to issue bonds without additional federal support. We are now exploring this matter further with our financial advisers.

So, it is my painful lot to tell you today, Mr. Chairman, that we are in trouble with our financial plan because of the delays which have beset the transit program.

Our construction and financial schedules are stretched to the breaking point. The off-again, on-again appropriation experience has not been going unobserved.

Consequently, potential contractors are not sharpening their pencils as they develop their bids. We are not able to assess the effects upon the ultimate system cost at this time.

He recognized “that strongly held and divergent position” were delaying resolution of the highway impasse. “But while they are being reconciled, Mr. Chairman, collapse of many years of transit planning can serve no purpose.” He pleaded for a solution

We all seek a balanced transportation system for the National Capital area. In that common purpose, there is no profit or reason in the sacrifice of one element for the other . . . .

Chairman Natcher summarized the subcommittee’s support for balanced transportation and its efforts to secure that balance. He asked if WMATA still believed in its estimate of \$2.5 billion for the 97-mile Metro system.

General Graham replied that WMATA had been engaged for several months in new capital cost studies. Because the studies had not been concluded, he could not provide a precise figure, “but it appears that it will be substantially higher than the \$2.5 billion of costs.”

Chairman Natcher pointed out that he had said all along that Metro would cost more than \$2.5 billion. “General, in all fairness to this committee and to the Congress and to the District of Columbia, won’t this system come nearer \$4 billion than it will \$2.5 billion?”

General Graham explained the assumptions behind the estimate of \$2.5 billion:

We could not foresee at that time that construction costs would go up in this inflationary spiral, largely due to the wage agreements that were not for just one year but extending into the future for two or three years. We could not foresee the rise in the interest rates.

He expected the cost studies to raise the estimated cost by “some few hundreds of millions of dollars.” WMATA was “a long ways from being able to say that some day this may cost \$4 billion.” Ultimately, he hoped the Nixon Administration would “get the rate of escalation under control so we never go anywhere near that figure.”

If, Chairman Natcher pointed out, the estimate went above \$2.5 billion, WMATA would have to come back to Congress for additional authorizations. General Graham agreed. Chairman Natcher summarized the cost estimate increases over the years and the reasons for those increases. However, he favored a balanced transportation system that included the planned freeways:

General, I hope this matter can be resolved. I know you do, and all of your people and associates do, because when you come back for more money, unless there is a change in the over-all situation as I see it today, we may end up with about a 45- or 46-mile rapid transit system, not 97 miles.

If the Congress should simply say with all of the demands that are confronting the American people, we are not going to carry the amount up any more at this time, then we

would have to cut it back. I am hoping that we can resolve this problem and move it on and build this system . . . . This is a serious matter, and one that it will be right hard to take back to the Congress. I would like to have it all settled. It is a serious mistake for anyone to try to block a balanced transportation system . . . . Let me say to you again, I am going to travel the road with you. We are going to solve this matter.

General Graham said, "That sounds great." [Eisen, Jack, "Metro Cost Rises, Could Cut System," *The Washington Post and Times Herald*, December 8, 1970; "Capitol Hill Testimony on Metro's Fate," *The Washington Post and Times Herald*, December 13, 1970]

On December 31, WMATA released the results of the cost studies. A 10-page white paper explained that the estimated cost of the nearly 98-mile system had increased by \$400 million, a 19 percent increase to \$2.9 billion. WMATA attributed the increase to inflation in construction costs, higher interest rates, and delays in securing the District's share of funding as a result of the freeway-subway impasse. Under the existing cost-sharing formula, the contribution from area governments, including the District, to the total system cost would increase by \$150 million to \$725 million and the Federal contribution would grow by \$300 million to nearly \$1.5 billion. Bonds would make up the difference between contributions and costs, but Metro staff suggested that a Federal guarantee of repayment would probably be needed to convince investors to buy the bonds.

The WMATA Board of Directors rejected cost-cutting measures, such as smaller stations, curtailed air conditioning, and fewer escalators, saying they were a "backward step." Instead, the directors vowed to find \$510 million in local tax revenue and congressional contributions to meet the new budget.

Staff also had revamped the 10-year construction schedule. The new schedule projected completion of Metro construction by December 1979, but staff cut the initial section to 4½ miles (Rhode Island Avenue and Eighth Place, NE., through Union Station beneath G Street to the Farragut North terminal at Connecticut Avenue and K Street, NW., instead of continuing to Dupont Circle). It would begin operating in December 1973. [Eisen, Jack, "Metro Costs Rise 19% to \$2.98 Billion," *The Washington Post and Time Herald*, January 1, 1971; Grigg, William, "Metro Costs Up, 1<sup>st</sup> Segment Is Cut," *The Evening Star*, December 31, 1970]

The cost increase and contribution problem prompted the *Post* editorial board to state that the optimism inspired by the groundbreaking a year earlier "has been drained from us." An editorial on January 2 explained:

Indeed, the dream has become a nightmare, full of mischievous and narrow-minded men who care not for the Nation's Capital, for the people who live in its environs, or for the commitments they have made in the past.

The only people happy about the bad news were "Congressman Natcher and his friends on Capitol Hill . . . because these two things complicate enormously the financing of Metro and that, after all, is what Mr. Natcher has been busy doing for the past two years." WMATA should present Congress with a bill for the increased costs that the games Representative Natcher has

played have added to the cost “and see whether Congress has the moral courage to pay for the damage it has caused.”

Maryland Comptroller Goldstein’s stance was understandable, if regrettable, in view of Chairman Natcher’s actions:

This whole mess, of course, grew out of the fight over freeways in the District and the feeling of Mr. Natcher and the House Public Works Committee that they had been doublecrossed on the freeway program. As far as we can tell, the legislation passed this year [1970] has mollified the Public Works Committee. But it seems to have had no impact on Mr. Natcher. It is beginning to look more and more as if he doesn’t want a rapid transit system built at all, despite his often repeated remarks that he’s all for it.

The damage was not limited to the District since it affected Maryland and Virginia as well.

The editorial concluded by listing the other members of the District appropriations subcommittee, “a majority of whom seem eager to strangle this community’s rapid transit system in its crib.” The list:

They are William H. Natcher of Bowling Green, Ky.; Robert N. Giaimo of New Haven, Conn.; Edward J. Patten of Perth Amboy, N.J.; David Pryor of Camden, Ark.; David R. Obey of Wausau, Wis.; Glenn R. David of Waukesha, Wis; Donald R. Riegle, Jr. of Flint, Mich.; and Wendall Wyatt of Astoria. Ore.

Messers Natcher, Giaimo and Patten have residences in the District; Mr. Wyatt lives in Fairfax County, Mr. Riegel [sic] in McLean, and Messrs. Obey, David, and Pryor in Arlington. [“Strangling Metro in Its Crib,” *The Washington Post and Times Herald*, January 2, 1971]

On January 2, after WMATA released its new estimate, Secretary Volpe wrote to General Graham to ask the Metro Board to take no action on its budget until he had a chance to review it and offer possible alternatives for finding the extra \$510 million. He was concerned about “the mounting jeopardy into which the long-range financial plan . . . appears recently to have fallen.”

An aide said the Secretary’s goal was to expedite construction. WMATA officials were encouraged by his involvement since Nixon Administration support was essential to finding a way of keeping the project moving forward. [Eisen, Jack, “Volpe to Review Metro Cost Crisis,” *The Washington Post and Times Herald*, January 5, 1971]

When a jurisdiction did not make its contribution on time, WMATA assessed a penalty. With the District share on hold, other jurisdictions were hesitant to make payments that would end up idle and kept in an account earning 6 percent interest. As of January 1971, penalties totaled \$590,000. The District was incurring a penalty of \$2,000 a day.

In Maryland, the State and counties were arguing over whether the \$10 million payment was a grant or, as the State maintained, a loan. In addition, Governor Mandel, who chaired the three-member State Board of Public Works, added. “Our sources in Washington tell us the price will



be closer to \$4 billion than \$2.9 billion, and this will require a tremendous amount of money from within the State somewhere.” Maryland was not willing to make further payments until WMATA released a long-range spending plan that covered the likely cost of \$4 billion. The public works board, which had to approve all such expenditures, had refused to release the funds without the long-range plan. Comptroller Goldstein, a member of the board, said, “We got to have that information because otherwise our contribution will be a shot in the dark.” [Rowland, James B., “Subway Funds Hit New Snag,” *The Evening Star*, January 24, 1971; Kneece, Jack, “A Way Out of Subway Fund Crisis Proposed,” *The Sunday Star*, January 31, 1971]

The immediate problem was Chairman Natcher. As Professor Schrag pointed out, “Natcher’s thinking remained mysterious” even as he once again withheld subway construction funds:

He refused to talk to reporters, and in both his public statements and private journals he gave shifting, contradictory reasons for withholding the appropriation. At times he expressed concern about cost overruns, predicting a total cost of more than \$5 billion, rather than the \$2.5 billion then projected by WMATA. At other times, he claimed that “there is not a man, woman or child in the city of Washington that is stronger for a rapid rail system than I am,” but he simply felt obliged to defend the honor of the House of Representatives. By 1971, Natcher had convinced himself that support for Metro came mainly from “big banks, large brokerage firms and big law firms,” or possibly the Mafia, who presumably were seeking illicit gain. Daniel Inouye, Natcher’s counterpart in the Senate [having replaced Senator Proxmire as chairman at the start of the 92<sup>nd</sup> Congress], speculated that Natcher simply feared the shame of a headline reading “Natcher Gives In.” Perhaps most of all, Natcher wanted the highway acts enforced as a matter of law and order. He was an old-time southern Democrat, increasingly uneasy in a majority-black city whose residents were gaining political power by the day. Building the highways would prove that “our Capital City is under the jurisdiction of the Congress of the United States and not under the jurisdiction of the looters and the burners who have no respect for this city.” [Schrag, pages 136-137]

Funding aside, WMATA was still trying to resolve concerns about minority contracting, hiring, and training. On September 4, 1970, Jack Eisen had reported that, “Washington’s Metro subway agency and Project Build, a union-sponsored manpower training program, have reached a preliminary agreement on the training of unskilled workers for craft jobs on the subway.” Jack Brown, WMATA’s equal employment opportunity officer, disclosed the plan to the board on September 3. Project Build would provide an 8-week pre-apprenticeship program for 40 workers in skills needed on the project. Contractors would then hire the trained workers. Crafts were carpenters, cement masons, electricians, operating engineers and iron workers. The Department of Labor was providing funds for the training. Under the Washington Plan agreed to with the Labor Department, the hard-core unemployed were to comprise at least 5 percent of the subway work force. [Eisen, Jack, “Unskilled Training Plan Set,” *The Washington Post and Times Herald*, September 4, 1970]

On October 22, WMATA Chairman Yeldell told Brown, “I’m totally dissatisfied” with the lack of progress in involving minority groups in the project. Brown informed the board that only one minority firm had received a subcontract and that was for \$20,000. Further, WMATA did not yet

have final agreement on training of the hard-core unemployed. Contractors were to submit employment plans within 90 days of signing their contract, but none had yet done so. Stephen Green reported:

Yeldell said that unless the minority work situation changes, the entire metro program will be committed to contractors before minorities are involved at all.

Herbert E. Harris of Fairfax and Charles Beatley of Alexandria, members of the subway board, said they “applauded” Yeldell’s position.

“There’s only so much one man can do,” Brown said. Yeldell and Carlton Sickles, authority vice chairman, suggested that Brown ask the directors for help if it is needed.

He said the reason minority firms had difficulty securing contracts or subcontracts was their difficulty obtaining bonding and insurance:

Jackson Graham, general manager of the authority, said that “historically” minority contractors are not interested in heavy construction work. Yeldell replied that they are interested but have been barred from obtaining contracts. [Green, Stephen, “Subway Minority Hiring Inadequate, Yeldell Says,” *The Evening Star*, October 22, 1970]

A week later, Chairman Yeldell had confirmation of the problem for minority contractors. Minority Truckers, a combine formed a few weeks earlier by 21 minority-owned trucking firms to secure contracts on the Metro construction work, informed him that it could not obtain a multi-million subcontract because it was unable to secure bonding within 5 days, as required by the prime contractor, Peter Kiewit Sons, Inc., on a \$38 million contract to build the station at Metro Center. Kiewit replaced Minority Truckers with a white-owned firm that was able to secure bonding. The experience suggested to Chairman Yeldell that WMATA would have to get involved in bonding issues to “break the cycle” that had frozen minority contractors out of the work. [Eisen, Jack, “Bond Blocks Black Group In Metro Job,” *The Washington Post and Times Herald*, October 30, 1970; Green, Stephen, “Blacks Lose Metro Pact Over Bonding,” *The Evening Star*, October 29, 1970]

On November 5, WMATA’s board considered the agreement provided by the U.S. Department of Transportation to make the \$57 million loan official. The agreement required development of a far-reaching plan for involving minority groups in the construction work, as described by Stephen Green:

The department’s plan would have the transit authority train persons to qualify as journeymen in skilled crafts “through appropriate on-the-job and other training in connection with the construction of the Metro subway system.”

It also would have the transit authority work with minority businesses to aid them in obtaining subway contracts.

It also would have the transit authority submit to federal officials a program for the hiring of minority group members on the subway agency staff. [Green, Stephen, "Area Subway Panel Is Told to Develop Minority Job Plan," *The Evening Star*, November 5, 1970]

The Washington Area Construction Industry Task Force, which had focused on hiring for construction work, filed a suit in U.S. District Court charging that WMATA had discriminated in staff hiring and promotion. Joined by black engineer James Samuda, the task force alleged that WMATA "discriminated on the basis of race with respect to the hiring and promotion of professional and nonprofessional members of the staff." Attorney Clifford Alexander called it "outright discrimination" in staff hiring and promotion policies."

WMATA had 236 authorized staff positions. Only 205 were filled at the time of the suit, but of 130 professional positions, blacks held fewer than 10 positions. Of the 75 nonprofessional jobs, blacks held 35. Further, of the 70 staffers earning more than \$20,000 a year, only one was black.

Figures from WMATA identified 20 of 142 professional jobs and 35 of 63 nonprofessional jobs, but defined "minority group members" to include Oriental and Spanish-speaking employees.

Samuda claimed he had been approached in June and asked to apply for a position. He was, the suit claimed, "led to believe that he would shortly be offered a specific position on the authority staff." However, on June 29, his application was rejected "without adequate explanation."

The *Star* reported:

The suit asks for a ruling that WMATA has infringed the rights of the plaintiffs and for an injunction against future such infringement. It also asks the court to order WMATA to submit an affirmative action plan for hiring blacks to the staff in numbers "which shall reflect approximately the percentage of black residents of Washington, D.C.

The suit also sought an order that Metro establish a program to "actively and in good faith . . . seek out and recruit black residents of Washington" until their percentage equaled the black population of the city, about two-thirds of all residents. Plaintiffs also asked the court to prohibit Metro from hiring or promoting any white employees "to eliminate the effects of past racial discrimination." [Kalb, Barry, "Metro Accused of Bias In Hiring for Subway," *The Evening Star*, December 12, 1970; Eisen, Jack, "Suit Assails Metro On Staff Job Bias," *The Washington Post and Times Herald*, December 12, 1970]

A few days later, the *Star* reported that WMATA was working on a plan to set up a special panel of consultants to help black-owned businesses secure contracts. WMATA, by law, had to treat all bidders equally, but by setting up the separate panel, the agency could provide help black contractors overcome obstacles such as submitting competitive bids and securing bonds. "Black-owned firms, so far have received only \$300,000 in contracts from WMATA, compared with a total of more than \$18 million in subcontracts let." WMATA expected that funds for the panel might come from the Federal government or a private foundation. ["Metro Maps Steps to Aid Black Firms," *The Evening Star*, December 19, 1970]

## The Metro Revolt Begins

At the end of 1970, *Star* editors described Metro as being at a critical junction. Virginia's Alexandria, Arlington, and Fairfax Counties had delivered checks to WMATA for their 1971 share. Nevertheless, they shared Maryland's concern about "the incredible performance of Congress" in holding District matching funds "hostage." The editors feared, "The whole subway endeavor could soon come to a standstill."

Only Chairman Natcher can shore up the project. "Surely he perceives the intolerable losses – possibly fatal to the undertaking – that could result from a delay at this critical point." Although Congress had authorized \$68.4 million for the Federal share, the funds could not be used without the District's match. "Success of the program depends on continuance of the finely balanced multi-jurisdictional participation that has been worked out, on keeping ahead of inflationary erosion and avoidance of contracting delays."

Congress had postponed a decision on the North-Central Freeway by ordering a study. "We hope that Natcher will ascertain that there is some motion on the freeway question – all that is immediately attainable – and will turn the subway money loose." ["Critical Subway Juncture," *The Evening Star*, December 30, 1970]

As the 92<sup>nd</sup> Congress arrived in Washington to organize, District officials could contemplate the possibility that Chairman Natcher would leave the District appropriations subcommittee for chairmanship of another subcommittee. Following the 1970 election, rumors had suggested he would do so, thus leaving the post where he had caused so many problems by withholding District funds for the subway to force the city to build its freeway system. However, as committee memberships changed, his retention of his position became clear in early February. He refused to comment.

Representatives Patten and Riegle left the subcommittee, which gained several members: Representatives Louis Stokes (D-Oh.), K. Gunn McKay (D-Ut.), Robert C. McEwen (R-NY), John T. Myers (R-In.), and William J. Scherle (R-Ia.). ["Natcher To Stay As Chairman of D.C. Panel," *The Evening Star*, February 9, 1971; "Natcher Retains Unit Chairmanship," *The Washington Post and Times Herald*, February 10, 1971.

By 1971, Chairman Natcher saw his support lessening in Maryland and Virginia. Both States supported Metro, but the congressional insistence on construction of the North-Central Freeway in the District implied that Maryland would build the increasingly unpopular link between the District line and the Capital Beltway:

As suburbanites turned against that project, their elected representatives turned against Natcher. The vast majority of the Montgomery County delegation to the Maryland legislature proclaimed that the North Central Freeway "involves directly the interests of Maryland and her citizens, more particularly those residing in Montgomery County, and the decision should be made at the state and local levels," not by congressmen from Kentucky and Illinois [Chairman Kluczynski]. One Prince George's County state senator

wondered if it wasn't time for local congressmen to start blocking federal projects in Natcher's home district. [Schrag, page 138]

As Professor Schrag added, the difference between the District of Columbia and its neighboring States was that unlike the District, they, then as now, had representatives in the House and Senate who could vote the interests of their constituents. Representative Gude, recognizing that his constituents had turned against I-70S inside the Capital Beltway, encouraged his colleagues on the District Committee to judge each program on its merits. In Virginia, Representative Broyhill had supported construction I-66 inside the Capital Beltway and the I-266/Three Sisters Bridge:

Through 1970 Broyhill continued to scold the District government for not building freeways, but Broyhill had been burned by Natcher's caprice, and by a close reelection that November in which the freeway issue cost him some votes. Now, in the spring of 1971, even he wanted to separate the issues of subway and freeway construction. [Schrag, page 138]

At the same time, the White House was increasingly frustrated with the stubborn Congressman:

Nixon himself had no desire to get entangled in what he saw as a local issue. But daily liaison between the White House and the District was handled by Egil Krogh, Jr., a young lawyer from Seattle who had taken over D.C. duties from Moynihan. Krogh had fallen in love with the city and had been impressed by the demonstrations against the Three Sisters Bridge. He did not want to see the District surrender to blackmail. [Schrag, page 137]

Moynihan left his post as counselor to the President on December 30, 1970, to return to Harvard.

Within Chairman Natcher's subcommittee, Representative Giaimo, the second ranking Democrat, and a new member, Representative Obey, were planning a revolt. Representative Obey had been a State legislator when President Nixon, in December 1968, selected Representative Melvin R. Laird (R-Wi.) to be Secretary of Defense. In the special election to replace Representative Laird, the 30-year old Obey won. When he took the oath of office on April 1, 1969, he was the youngest Member of Congress and the first Democrat to represent his northwestern Wisconsin district, which included Superior and Wausau. He and his wife Joan, along with their young son, moved to the Washington area where they rented a home in Arlington.

After an initial stint on the Public Works Committee, he was assigned to the Appropriations Committee at the start of the 92<sup>nd</sup> Congress and to Chairman Natcher's District Appropriations Subcommittee. In his autobiography, Representative Obey described the chairman as a "respected, courtly, tough-minded Kentuckian." Although new to the Washington area, Representative Obey quickly sided with subway advocates and those who opposed the Three Sisters Bridge:

Georgetown was already strangling in traffic, and the District Government was resisting the construction of the new bridge . . . . It was also obvious to me that obliterating the

beauty of Spout Run by adding more lanes to the traffic and dumping even more cars into Georgetown's clogged streets was the wrong thing to do.

Representative Obey did not agree with Chairman Natcher's decision to withhold subway funds:

As the most junior member of the subcommittee, I reluctantly acquiesced in Natcher's decision because I felt there was no way I could change the outcome. But when the dispute spilled over into another year [1971], it became apparent that further delay would raise construction costs due to inflation . . . . When Natcher made clear that he intended to continue denying funds for the desperately needed subway system, I decided that, win or lose, I was going to start a fight by offering an amendment to the D.C. Appropriations bill restoring the needed funds.

He decided to approach Representative Giaimo, an attorney who had won election to the House in 1958 and was a strong supporter of Metro. Professor Schrag said of Representative Giaimo:

Giaimo knew full well the customs of the committee. "You be quiet," he was told, "you get along, you go along, you don't make any waves, you certainly don't challenge your sub-committee chairmen and your committee chairman with amendments." Only gradually did Giaimo emerge as a rebel. In August 1969 he wrote a constituent that "the anti-highway people blithely ignored the will of Congress," and that "Congress, not Mr. Natcher," had withheld the Metro funds as a means of overcoming "a noisy militant minority." A year later, at the beginning of the second impasse, he began to tilt. While highways had their place, he wrote, "the citizens of the District ought to be able to set their own public policy – making these crucial decisions in accordance with their own view of their best interests – even if they have to make their own mistakes." And by the spring of 1971, with Metro's future obviously at risk, he was fed up with Natcher's blackmail. "Bill," he told his chairman, "it's unconscionable. We can't hold up the Metro. We're going to need Metro in this town." [Schrag, pages 138-139]

Representative Obey described his discussion with Representative Giaimo:

I called Giaimo and told him that I could not continue to allow Natcher to go unchallenged on the issue. "I intend to offer an amendment unleashing the subway if I have to, Bob," I told him, "but the amendment should really come from you. People will listen to you who don't even know who I am," I told him.

"God, I agree with you," Bob said, "but taking on Natcher is damn near death defying in this place. You don't know him like I do. He never forgets who crosses him, and we will pay a hell of a price if we take him on – especially if we lose – and the odds of our overturning him are damn slim." "I know that," I told Bob, "but a few years from now if Spout run is destroyed and Georgetown is a mess, I will wish to hell I had done something."

They agreed to act fast. Representative Giaimo was leaving for Connecticut, but suggested that Representative Obey arrange a meeting to work out a plan with other members of the subcommittee, the Mayor's office, WMATA, and the White House:

When I made my calls, I found little interest from other subcommittee members. When I called the office of deputy mayor Graham Watt to ask them to send someone to a strategy meeting, they reacted like I had leprosy. "Oh no, we can't send anybody," they said. "We can't risk antagonizing the chairman."

"You have to be kidding," I said. "You want the money; the Subway Authority wants the money; you expect us to antagonize Natcher, but you don't have the guts to do the same thing?" I asked. Then I told them, "Look, the meeting is going to be held whether you come or not. We're sticking our necks out whether you do or not, but if you don't come, I will tell a press conference that the mayor's office is an Uncle Tom operation." The next week they showed up at the meeting.

The White House agreed to send their District liaison, Krogh, and convinced Speaker of the House Albert, who persuaded Chairman Mahon of the Appropriations Committee, regarding the revolt. Representative Giaimo, Obey, and their coconspirators had to await their moment. [Obey, David R., *Raising Hell for Justice: The Washington Battles of a Heartland Progressive*, The University of Wisconsin Press, 2007, pages 136-137]