

TRIBOROUGH BRIDGE and TUNNEL AUTHORITY

TRIBOROUGH STATION, BOX 35

NEW YORK, N. Y. 10035

Telephone TRafalgar 6-9700

January 21, 1966

MEMBERS:

ROBERT MOSES, CHAIRMAN

WILLIAM J. TRACY, VICE CHAIRMAN

NORMAN K. WINSTON, VICE CHAIRMAN

MEMORANDUM IN OPPOSITION TO LEGISLATION

PROVIDING FOR THE MERGER OF

TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY

WITH THE NEW YORK CITY TRANSIT AUTHORITY AND

OTHER TRANSPORTATION FACILITIES

These bills in one way or another propose merger of Triborough Bridge and Tunnel Authority with the New York City Transit Authority and other transportation facilities. They are poorly advised, spring from panic and not logic, solve no problems, and create additional ones. They militate against effective planning, financing and operation of the various transportation agencies. Implicit in them is a plan to impose tolls on the presently toll-free city bridges.

Rather than throwing all transportation facilities, solvent and insolvent, into one pot, we should develop better methods of cooperation, such as the Transportation Council created by Mayor Lindsay, in which all of the agencies can meet, exchange views and act promptly and effectively.

This memorandum is submitted in opposition to these bills and with a view of furnishing information to the Transportation Council and the Mayor's other planning groups from which effective solutions to the transit problem may be developed.

The legislation is subject to the following objections:

1. The merger would violate the specific pledge of the State in Section 563 of the Public Authorities Law that "the state will not limit or alter the rights hereby vested in the Authority to maintain, reconstruct and operate the project. . . ."

2. As demonstrated by the recent transit strike, the merger would make it possible for a strike to cripple most transportation within and into the City. It would put all transportation under a single employee group, probably the Transport Workers Union, and invite a strike destructive of vehicular and rail transportation.

PETER J. REIDY
EXECUTIVE DIRECTOR

Senate Int. 419, Print 419 by Mr. Mackell
Assembly Int. 1358, Print 1358 by Mr. Maresca
Senate Int. 795, Print 798 by Mr. Conklin

copy
John

[Signature]

Attached is a budget showing the Triborough financial picture over the next six years. It shows that there is no substantial surplus after provision for operating expenses, debt service, and repairs and improvements under way.

There is much publicity as to an alleged "Triborough surplus" which can magically pay for mass transit deficits. This fat cat is a myth and nothing more.

There Is No Substantial Triborough Surplus.

In 1967 the Transit Authority faces the next bargaining for labor contract renewal. The deficit figure will then inevitably increase. This deficit cannot be met by merger or other fiscal sleight of hand.

Without taking into account the recent labor settlement, the annual operating deficit of The New York City Transit Authority will exceed \$115,000,000 including existing City subsidies of operating expenses. The labor settlement will increase the deficit by a total of \$50,000,000 to \$70,000,000 over the next two years. Nor is this the total deficit. It does not include capital improvements of about \$100,000,000 a year which are paid for entirely by the City.

A MERGER WOULD NOT ELIMINATE OR SUBSTANTIALLY REDUCE MASS TRANSIT DEFICITS.

8. Diversity of facilities and differing methods of operation would necessitate separate administrative forces, as at present, even if there was a purported merger. There would be no administrative savings. Greater size is not greater efficiency. Size beyond the point of diminishing return means greater, not less, cost.

7. The attempt to put under one umbrella all transportation, including bridges, tunnels, parking garages, parking fields, terminals, roads, highways, subways, buses, ferries and other facilities would be only a gesture—a paper consolidation. It would not, and could not, include The Port of New York Authority.

6. The merger would destroy the principle of the self-supporting authority. This principle has taken fifty years to develop, has long proved its soundness, and has had the support of outstanding Governors like Smith, Lehman, Dewey, Harriman and Rockefeller.

5. The merger would be grossly unfair to and discriminatory against car users who pay full tolls and highway taxes to support crossings and approaches.

4. The merger would destroy the Triborough Authority. Its program of providing bridge and tunnel crossings, arterial approaches and related improvements would come to an end.

3. The merger would not come anywhere near eliminating the enormous deficits of the New York City Transit Authority.

We have already seen, in the case of the transit strike settlement, a clash between the Federal Government and the City over the issue of inflation. A merger would invite another clash on federal highway aid.

THE MERGER WOULD RAISE SERIOUS QUESTIONS AS TO NEW YORK'S SHARE OF FEDERAL HIGHWAY AID.

The only honest alternative to these fare increases is recognition that the facilities cannot have it both ways. Either the fare must go up or there must be new taxes or other revenues to subsidize further the transit rider.

To meet the deficits in the operation of rapid transit and make it self-sustaining operationally (though not for capital improvements), a much higher fare is clearly required. The same is true of the Staten Island ferry where the fare has long been pegged unrealistically at 5¢. Nor can other presently partially self-supporting activities, such as pier and dock improvements, and some parking garages be made self-sustaining without higher charges.

THE MERGER WOULD NOT MEET THE BASIC PROBLEM, THE INADEQUATE TRANSIT FARE.

The merger would also deal a critical blow to the entire principle of authority operation. If New York State were to ignore its pledge to Triborough bondholders by merging Triborough with insolvent agencies, the same fate would ultimately be in store for the Thruway Authority, the New York State Bridge Authority, the Jones Beach State Parkway Authority, the State Power Authority, and other successful authorities.

This operation has depended upon the faith of bondholders in the financial stability and political independence of Triborough. Prudent investors will not buy bonds in a deficit operation.

The City of New York has not built a major vehicular bridge or tunnel since 1909. All such projects have been built and are operated by Authorities.

The only effect of merging Triborough with other transportation facilities will be to ruin the successful Triborough operation. This operation has provided, without public taxes or burden upon municipal financing, a highly efficient and successful system of toll bridges and tunnels connecting boroughs of the City and arterial approaches and connections uniting the City with the hinterland.

THE MERGER WOULD DESTROY TRIBOROUGH, AN AGENCY WHICH FOR DECADES HAS DEMONSTRATED ITS USEFULNESS.

The inescapable conclusion—slogans and wishful thinking aside—is that no help can come from Triborough to meet transit deficits. This is true even if one ignores the constitutional defects in any attempt to divert Triborough moneys to extraneous purposes or to change the statutory nature and essential purposes of Triborough.

Under present law, taxes and revenues collected from automobile users throughout the nation constitute a highway trust fund allocated by the United States Government for the support of highway programs administered by the states. Most major highways are supported by federal aid to the extent of 90%.

In this context it should be noted that Congressional allocations to the U. S. Highway Trust Fund for the fiscal years 1957-66 amounted to \$30.8 billion. The Trust Fund terminates in 1972 and the allocations for the remaining five fiscal years 1967-1971 are expected to total \$19.8 billion. These funds are composed solely of highway user contributions and are pledged solely to these users.

New York's anticipated share of the allocations for the remaining five years to 1972 will be about \$1 billion and New York City's share would amount to about \$425 million. Adding State highway aid funds amounting to 10% of the Interstate allocations and more than 50% of the urban allocations the City's share would still be inadequate to finish the present City program. These allocations must somehow be supplemented if the program is not to be reduced.

Liaison with the federal and state highway authorities has been carried out through Triborough. Triborough is the only agency with the funds or personnel to perform this task of planning and coordination.

If Triborough is destroyed, the City is likely to lose, at least for the next five years while alternative planning and administrative forces are developed, hundreds of millions of dollars of federal and state highway aid. The effect of such loss on the City, its construction industry and its labor forces, would be catastrophic.

THE MERGER WOULD INVITE PROLONGED LITIGATION.

Attached is a copy of counsel's opinion giving the Authority's position in support of its bondholders.

Merger legislation would destroy the bondholders' rights and the protection of the revenues pledged to secure their bonds. It would inevitably lead to protracted litigation which, whatever its ultimate resolution, would, at least for many years, prevent the use of any Triborough funds for mass transit purposes and inevitably damage irreparably the credit standing of every other Authority in the State.

THE MERGER WOULD INVITE FUTURE LABOR TROUBLES THAT WOULD MAKE THE RECENT STRIKE LOOK LIKE A MINOR DISTURBANCE.

During the recent transit strike, the facilities of the two big Authorities, The Port of New York and Triborough, met every test. Their bridges and tunnels, and the cars, trucks and buses which use them, withstood the burden of the strike and they had no

NORMAN K. WINSTON
Vice Chairman

WILLIAM J. TRACY
Vice Chairman

ROBERT MOSES
Chairman

New York City is part of a highly competitive, complex, strategically located, crowded, spreading, motorized urban civilization. The energies which animate our town will sustain it. Willingness of existing leaders to work together, not paper consolidation, is the requirement. Given this disposition the present difficulties are by no means insuperable.

Full cooperation in planning of transportation is essential, but an administrative monopoly is not the answer. We favor the greatest practicable coordination of all departments, agencies and interests, Federal, State and municipal, and pledge full support and cooperation to that end.

We appreciate the difficult problems confronting the Mayor and we applaud his efforts to find solutions. We are confident there are solutions though not quick or easy ones. We are prepared to work with the Mayor to find them.

Mayor Lindsay is quoted as saying that the press should not create a fight between him and Triborough when there is none. We agree.

CONCLUSION

If Triborough were shoveled into one Authority with rapid transit, rails, and ferries, a single union would control most major arteries of transportation. The consequences of this are too fearsome to contemplate. The catastrophic strike potential should alone kill this ill-conceived merger scheme.

serious labor troubles. Rubber saved the rails. As New York City Traffic Commissioner Barnes has pointed out, without the Authority operated toll tunnels and bridges, the City would not have functioned at all during the strike.

ESTIMATED NET REVENUES AND DISPOSITION THEREOF

1966-1971 Inclusive

(000's Omitted)

	Estimated Available Balance 12/31/65	1966	1967	1968	1969	1970	1971
Revenues After Operating Expense and Bond Service on Existing Issues	\$20,800	\$21,850	\$22,850	\$35,200	\$27,200	\$27,200	\$27,200
Construction Program							
1. Reconstruction Plazas and Connections—	\$ 3,500	\$ 9,500	\$ 8,000				
2. Cross Bay Bridge Reconstruction	500	5,000	7,000				
3. Marine Bridge Interchange	500	1,500					
4. Coliseum 4th Floor Alteration	2,000						
5. Wards and Randall's Island Park	300	380					
6. Flushing Meadow Park	3,000	2,200					
7. Richmondtown	250						
8. Battery Parking Garage Addition							
25 Yr. \$5 Mil. 4% Issue—Bond Serv. . .			320	320	320	320	\$ 320
9. Queens Midtown Tunnel 3rd Tube							
25 Yr. \$140 Mil. 4% Issue—Bond Serv. .					8,960	8,960	8,960
10. East Side Air Term. Garage Addition							
25 Yr. \$8 Mil. 4% Issue—Bond Serv. .					525	525	525
11. Lower Deck—Verrazano Narrows Bridge							
12. New York City Building	700	200	500	1,500	9,000	9,000	9,000
13. Arterial Park Improvements	2,000	2,000	2,000	2,000	1,000	1,000	1,000
14. Miscellaneous Capital Improvements ..	500	1,000	1,000	1,000	1,000	1,000	1,000
Total Expenditures	\$13,250	\$21,780	\$19,020	\$22,005	\$21,005	\$20,805	\$20,805
Remaining Revenues	\$8,000	\$ 7,550	\$ 70	\$ 3,830	\$13,195	\$ 6,195	\$ 6,395

TRIBOROUGH BRIDGE and TUNNEL AUTHORITY

TRIBOROUGH STATION, BOX 35

NEW YORK, N. Y. 10035

Telephone TRafalgar 6-9700

November 15, 1965

STATEMENT TO TRIBOROUGH BONDHOLDERS

by

ROBERT MOSES, Chairman

We have been asked by our bondholders as well as the press and public to comment on recent speeches and expressions of opinion on the use of so-called Authority "profits" and surpluses for other purposes not consistent with law, agreements, contracts, simple arithmetic and common sense.

One recent pronouncement in the press summarizes the position of one of these spokesmen as stating that authorities are answerable only to themselves, accumulate huge surpluses which are not devoted to other public needs which often go begging for funds, and urges that such surplus revenues be used to reduce transit deficits and help preserve the subway fare.

Such statements are grossly inaccurate, intemperate and irresponsible and seem an inevitable and unfortunate by-product of politics. In order to avoid prolonged debate, I attach a memorandum of law on this subject signed by counsel.



ROBERT MOSES

I.

Triborough Bridge and Tunnel Authority was established by Title 3 of Article 3 of the Public Authorities Law, Chapter 43-A of the Consolidated Laws of the State of New York to undertake and operate various public projects therein specified and others since added such as the Verrazano-Narrows Bridge. Little, if any, public money being available for these projects, the Authority was authorized to borrow the necessary funds, issue its bonds therefor and make the pledges of revenue and related agreements required to secure the payment of interest on and principal of such bonds when due. Subdivision 12 of Section 553, empowers the Authority to charge tolls, fees or rentals for the use of a project, "subject to and in accordance with such agreement with bondholders as may be made as hereinafter provided," and also provides that

" * * * Subject to contracts with bondholders * * * all tolls and other revenues derived from any project shall be applied to the payment of operating, administrative and other necessary expenses of the authority properly chargeable to such project and thereafter to the payment of interest or principal of bonds or for making sinking fund payments for bonds, not otherwise adequately provided for, whether issued in connection with such project or any other project."

Subdivision 5 of the same section grants to the Authority the power to make "rules for the regulation of the use of the project and the establishment and collection of tolls thereon" subject to agreements with bondholders. Section 560 empowers the Authority "to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority, or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract * * * ." These and other provisions of the Act indicate that the legislature intended that the financial administration of the Authority should be adaptable to the practical realities of revenue bond financing.

II.

At the present time two such agreements are in existence. They are the General Revenue Bond Resolution adopted January 22, 1952, under which \$87,475,000 principal amount of bonds presently remain outstanding, and the Revenue Bond Resolution (Narrows Bridge) adopted April 18, 1960, under which \$300,000,000 principal amount of bonds are outstanding. Each, by its terms, constitutes a contract between the Authority and the holders of bonds issued thereunder.

Under these resolutions the Authority has pledged all its moneys, with certain exceptions, to secure the payment of the principal and redemption price of, interest on, and any sinking fund payments for the bonds. Those exceptions are amounts required to meet reasonable and necessary operating expenses, and amounts in excess of reserves for bond service and reconstruction of projects.

The pledges effected by these resolutions subject the revenues of all the Authority projects to liens which are valid and binding as against all parties having claims of any kind (Public Authorities Law § 561, Subdiv. 4-c).

While the Act specifically provides that the bonds and other obligations of the Authority shall not be a debt of either the State or the City of New York, and that neither shall be liable thereon, on the other hand, Section 563(1)(a) of the Public Authorities Law contains the State's pledge to and agreement with the holders of bonds of the Authority "that the state will not limit or alter the rights hereby vested in the authority * * * to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders." The holders of bonds are thus the beneficiaries of independent contractual obligations by the State and the Authority. Any attempt to alter these contractual rights by legislation designed, perhaps, to divert pledged revenues would be plainly invalid. Article I, Section 10, of the United States Constitution forbids any state to "pass any * * * Law impairing the Obligation of Contracts." That Constitutional prohibition may be invoked against any impairment of the State's pledge as expressed in the statute as well as against any impairment of the Authority's pledge as expressed in the bond resolutions.

III.

Beyond the simple and conclusive fact that Triborough Bridge and Tunnel Authority moneys are not available to help meet transit deficits there are other, equally insurmountable obstacles. The appropriation of Authority moneys to such a purpose would contravene state law as well as provisions of the New York State and United States Constitutions. Triborough Bridge and Tunnel Authority is, in law, a public benefit corporation, which is defined in subdivision 4 of Section 3 of the General Corporation Law as "a corporation organized to construct or operate a public improvement wholly or partly within the state, the profits from which enure to the benefit of this or other states, or to the people thereof." As a corporation, like any other, it possesses and can exercise only those powers expressly granted to it by the legislature and those implied powers reasonable and necessary to the exercise of those express powers. Being a creature of limited capacities, the Authority then can apply its moneys only to purposes it is authorized to pursue. The undertaking of a project not specifically authorized would be *ultra vires* and the moneys of the Authority could not be made available for it. The application of Authority moneys to help meet transit deficits would be far beyond Triborough's powers.

IV.

The concepts of surplus and profit are both, of course, alien to Triborough and misleading in this context. Webster's dictionary defines "surplus" as "that which remains when use or need is satisfied." Because of the continuing pledges of the bond resolutions there can be no authority "surplus" in the sense of moneys which can be disposed of freely and without restriction. Any excess of returns over expenditures resulting from Authority operations does not find its way into pockets of private entrepreneurs, of course, but remains available for the public purposes Triborough has been authorized to pursue and within the limitations of its agreements with bondholders under its two bond resolu-

tions. As above mentioned, all revenues of the Authority are pledged under the two existing bond resolutions and can only be used in accordance with their provisions, viz. first for operating expenses of the Authority, then for payment of principal of, interest on and Sinking Fund Installments for the bonds as they become due, the maintenance of reserves required under the resolutions, and any necessary reconstruction of the Authority's present projects. Thereafter any funds remaining may be used by the Authority for certain permitted and specified purposes, which include those authorized by certain sections of the present Act. But these cannot be altered or enlarged without violating the obligations of the Authority to its bondholders and likewise the pledge of the State to the bondholders.

HAWKINS, DELAFIELD & WOOD



Franklin S. Wood

WHITMAN, RANSOM & COULSON



Charles F. Preusse



William S. Lebwohl

Counsel, TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY

**RESOLUTION ON DIVERSION OF TRIBOROUGH BRIDGE AND TUNNEL
AUTHORITY FUNDS TO MASS TRANSIT**

In recent months, a number of persons and public agencies have proposed the use of tolls collected from motorists by the Triborough Bridge and Tunnel Authority and the Port of New York Authority to subsidize the area's mass transit facilities, especially to help offset the subway deficit.

Based on its experience throughout the country, the American Automobile Association is opposed to the use of motor vehicle taxes or tolls for such subsidies as inequitable, short-sighted and inimical to the interests of a balanced transportation complex. Here, in the City of New York, the subway is not the motorists' problem alone but one of broad public responsibility. It is neither fair nor logical that, in addition to paying the entire cost of bridge and tunnel facilities, motorists should underwrite the cost of other forms of transportation.

The motorist is probably the only traveler into and out of the metropolitan area who is more than paying his own way through toll levies and other special highway user taxes which he pays to the state and Federal governments. Indeed it is too often forgotten that through the tolls and taxes they have paid, New York motorists have endowed our city with an arterial highway system that has contributed to the welfare of all segments of our economy.

This fact alone should justify the motorist's insistence that the monies derived from toll collections should be used only for those projects that directly benefit our highway system and to pay off existing indebtedness on the toll facilities.

A basic principle is involved and motorists have no alternative but to oppose any and all raids on these funds accumulated by the Triborough Bridge and Tunnel Authority and the Port of New York Authority from the tolls they have paid.

The Automobile Club of New York strongly urges public officials and agencies directly responsible for financing mass transportation to reject these diversion proposals which can only hamper automotive transportation in this area and impair the general economy.

It is directed that a copy of this Resolution be sent to the Mayor of the City of New York, members of the City Planning Commission, the Board of Estimate, City Council, the Chairman of the Triborough Bridge and Tunnel Authority, the Chairman of the Port of New York Authority and other appropriate public officials and agencies.

Adopted: December 21, 1965

Automobile Club of New York