Mr. G. V. Walters, Highways Engineer
Department of Public Works (continued)

the Court of Appeals of Maryland in the cases of Kirby v. Citizens Railway Co., 48 Md. 168; Baltimore City v. Cowen, 88 Md. 447 at 458; Public Service Commission v. Maryland Gas Transmissions Corp., 162 Md. 298 at 318; Baltimore Gas Co. v. State Roads Commission, 214 Md. 266 at 275; Mayor and City Council v. Baltimore Gas Co., 221 Md. 94.

This principle has been recognized even where a street has been totally closed. See: Nichols on "Eminent Domain", Vol. II, Sec. 5.35(2); In Re Lands at Nahant, 128 F. 185; New England Telephone and Telegraph Co. v. Boston Terminal Co., 182 Mass. 397, 65 N.E. 835; Northern Indiana Gas and Electric Co. v. Merchants Improvement Assn., 87 Ind. App. 74, 160 N.E. 50; City of Macon v. Southern Bell Tel. & Tel. Co., 89 Ga. App. 232, 79 S.E.2(d) 265.

However, this common law rule may be abrogated by legislative enactment requiring a State or municipal corporation to compensate the public utility for the expenses arising from the removal and relocation of the facilities. See: Mayor and City Council v. Baltimore Gas Co., supra, and Baltimore Gas Co. v. State Roads Commission, supra. Our problem, therefore, is whether there exists such a statute applicable to the Jones Falls Expressway.

None of the statutes authorizing the issuance of certificates of indebtedness by the Mayor and City Council of Baltimore for the construction of the Jones Falls Expressway purport to abrogate the common law rule. Therefore, the public utility companies must relocate their facilities at their own expense.

If public utility companies have their facilities in private rights-of-way and not in the public streets and highways and the City Highway Department requires such companies to remove or relocate its facilities, then, in such cases, the City would be responsible for the cost of such removal or relocation.