an owner's land was taken for which compensation was paid, would not support a judgment for damages to the remaining land. The fact that an owner or those desiring to enter his property might have to travel a circuitous and longer route to reach certain points because of traffic regulations changing the direction of traffic did not give rise to an injury different in kind from that sustained by the general public, and afforded no basis for an action for damages.

The supreme court also did not agree with the owner's contention that, as a matter of law, it was entitled to access to the highway along the entire border of its property, or at least to the full 140-foot entrance that it used before the condemnation. The court stated that an owner of property abutting a highway had a property right in the nature of an easement in the street for ingress and egress to and from his property which he could not be deprived of without compensation for his loss, but that the measure of the access right was reasonable ingress and egress under all the circumstances. Whether the right of access to the highway had been destroyed or materially impaired was a question of fact for the jury to determine. (W. E. W. Truck Lines, Inc. v. State. 132 N.W.2d 782, January 1965)

173-2 NORTH CAROLINA SUPREME COURT DENIES DAMAGES TO OWNERS OF PROPERTY ABUTTING ON A STREET THAT WAS CLOSED BY A CUL-DE-SAC BELOW THEIR LAND

Prior to the construction of the North-South Expressway through Winston-Salem the landowners and their corporate tenants had access (via 21st Street at an intersection 200 feet from their land) to Liberty Street -- one of the main arteries of travel to the other sections of the city. The North Carolina Highway Commission cut off 21st Street about 100 feet from the landowners' property creating a cul-de-sac and eliminating their access by way of that street to Liberty Street. The nearest access to Liberty Street was now at 25th Street, four blocks north of 21st Street.

The landowners alleged that they had a "public and private easement" in 21st Street in both directions and that the blocking of that street amounted to a taking without compensation.

The trial court ruled that the blocking of 21st Street did not constitute an appropriation of plaintiffs' property rights and that they had suffered no compensable injury.

The Supreme Court of North Carolina affirmed the trial court's decision and discussed the problem of recovery for circuity of travel caused by cul-de-sacs. Heretofore recovery had been permitted in urban areas under Hiatt v. City of Greensboro, 160 S.E. 748 (1931), which was based upon private property rights that arose from ownership of property contiguous to a street. These rights included the right to have the street kept open at both ends as a thoroughfare to the whole community for the purpose of travel.

In Snow V. North Carolina State Highway Comm'n, 136 S.E.2d 678 (1964), the property rights of an abutting landowner were restricted to the right of

reasonable access to the street upon which his property abutted. There was no right to have traffic flow pass the property, so in a case where the road was closed beyond the land, there had been no interference with a property right. The Snow case approach had been limited to rural property.

In the instant case, the court abolished the distinction between urban and rural property by overruling Hiatt v. City of Greensboro, and holding that the abutting owners had only the right of reasonable access to the street and that any inconvenience suffered because of the cul-de-sac was greater in degree but not in kind than that suffered by the public in general.

The court noted that if recovery was permitted for reduction of the flow of traffic or for circuity of travel practically every property owner in a town could recover when the highway commission constructed a by-pass to expedite traffic. (Wofford v. North Carolina State Highway Commission, 140 S.E. 2d 376, February 1965)

173-3 HIGHEST COURT OF MASSACHUSETTS RULES OWNER NOT ENTITLED TO COMPENSATION FOR CIRCUITY OF TRAVEL WHERE HIS ACCESS TO AN EXISTING ROAD WAS NOT IMPAIRED

In 1959, the Commonwealth of Massachusetts took a small triangular parcel of an owner's land for construction of a limited access highway. This small area did not abut on an existing road. Prior to the taking, all of the owner's land had access to Howard Road which was used to reach King Street. After the taking, Howard Road was dead ended at the new limited access highway - about 300 feet south of the most southerly point of the owner's land abutting on Howard Road. The consequence of the closing of this road was that the condemnee, who formerly had reached King Street from his land by a short 1,250 foot drive south on Howard Road, now could reach that street only by means of traversing substantially the whole length of Howard Road, a long stretch of Concord Road, and a longer distance on Littleton Road, a total of several miles of circuitous travel.

The trial court refused to give the instructions requested by the Commonwealth to the effect that the condemnee was not entitled to any compensation for the closing of Howard Road because he still had the same access thereto as he had had prior to the taking and construction of the limited access highway, unless his injury was special or peculiar to his land as distinguished from common injury to other land abutting Howard Road. The Commonwealth appealed to the supreme judicial court which decided that the instructions should have been given. It pointed out that apart from a certain statutory provision, a landowner was not entitled to compensation merely because his access to the public highway system was rendered less convenient, if he still had reasonable and appropriate access to that system after the taking. The statute provided that if a limited access way was laid out in the location of an existing public way, the owners of land abutting upon such existing public way were entitled to recover damages for the taking of or injury to their easements of access to such public way.

In the case at bar, however, although a piece of the owner's land was