

capital, it merely prevents any earnings and profits derived therefrom in any such business from becoming her separate property.

The Appellate Division, however, appears to have reached the conclusion that a partnership may be carried on by husband and wife on the same terms as if the parties were unmarried; but that does not seem to us to be giving a correct interpretation of section 7. According to our view the declaration of law on the finding of fact ought to have been that the husband alone was entitled to the profits of the business and that the same, together with his one-half share in the capital, were liable for the satisfaction of the plaintiff's debt.

HIGHWAYS.

There is an observation of Mr. Justice Riddell in the recent case *Re Toronto and Toronto & York Radial Ry. Co.*, 42 O.L.R. 545, which perhaps is open to question. Referring to Yonge St., the learned Judge says, "the County of York was from 1865 onward the owner in fee of that part of Yonge St. now in controversy." If the learned Judge is correct in this statement, then Yonge St., at the place in question, must have been an exception to the general law of public highways. The common law of highways assumed in the absence of evidence to the contrary that all highways were laid out and dedicated to the public use by the owners of the land on either side thereof, and hence the freehold of the highway was vested in the proprietors of the land on either side *ad medium filum*; and we imagine it must have been in deference to this principle of the common law that our earliest Municipal Acts, in dealing with the question, declared that the soil and freehold of every highway laid and according to law "shall be vested in Her Majesty Her heirs and successors": See C.S.U.C., c. 54, s. 314. This provision in varying forms continued to be the law down to the year 1913, when, by the revision of the Municipal Act, 3-4 Geo. 5, c. 43, s. 433, a change was made, and the soil and freehold of highways were then vested in the municipalities. If Yonge St. was subject to the ordinary law, therefore, it would not be until the year 1913, that the soil and freehold could have been vested in any municipality, and by