HIGHWAY, LIABILITY TO MAINTAIN—FOOTWALKS.

In re Local Board of Warminster, 25 Q.B.D., 450, may be referred to as an authority for the proposition that when a Statute imposes a duty on a municipal authority to maintain a road, it includes the footwalks at the side of the road.

PRACTICE—OFFICIAL REFEREE, JUDGMENT OF—APPEAL—POWER OF COURT TO ENTER JUDGMENT—ORD. XXXVI., R. 52; ORD. LIX., R. 3—(ONT. JUD. ACT, S. 103).

In *Clark* v. *Sonnenschein*, 25 Q.B.D., 464, the Court of Appeal (Lord Esher, M.R., Lindley and Bowen, L.JJ.) affirmed the decision of the Queen's Bench Division, 25 Q.B.D., 226 (noted *ante* p. 452), to the effect that on appeal from the direction of a referee to enter judgment, the Court may order any judgment it sees fit to be entered. It has been already pointed out that under the Ontario practice the referee to whom a cause is referred has no power to direct a judgment to be entered. He can only find the facts, and a motion must be made to the Court for judgment; this case, however, may be taken to settle the point of practice that notwithstanding the wording of Ont. Jud. Act, s. 103, to the effect that the finding of a referee, unless set aside by the Court, is to be equivalent to the verdict of a jury; it does not follow that the Court can only set aside a finding of a referee in the same way and on the same grounds that a verdict of a jury can be set aside. Lord Esher, M.R., lays it down that a finding of the referee is subject to the same rules of appeal as the decision of a judge trying a case without a jury, which is probably to be taken to refer both to the grounds on which the finding may be set aside, and to the tribunal by which it may set it aside. In Ontario, however, the decision of a judge trying a case without a jury can only be set aside by a Divisional Court, or the Court of Appeal, whereas the judgment of a referee may be set aside by a single judge.

PRACTICE—"JUDGMENT" AND "ORDER," DIFFERENCE BETWEEN.

In *Onslow* v. *Commissioners of Inland Revenue*, 25 Q.B.D., 465, it became necessary for the Court of Appeal (Lord Esher, M.R., and Lindley, and Bowen, L.JJ.) to determine what is the difference between an order and a judgment. Following the decision of Cotton, L.J., in *Ex parte Chinery*, 12 Q.B.D., 342, they came to the conclusion that a judgment is a decision obtained in an action by which a previous existing liability of the defendant to the plaintiff is established, and that other decisions were orders. In the present case the decision sought to be appealed from was given upon a case stated under a Statute, and it was held that it not being given in an action, the decision was therefore not a judgment but an order.

HUSBAND AND WIFE—MARRIED WOMAN—SECOND MARRIAGE—DEBTS CONTRACTED BEFORE MARRIAGE—RESTRAINT UPON ANTICIPATION—MARRIED WOMAN'S PROPERTY ACT, 1882 (45 & 46 VICT., C. 75), SS. 13, 19—(R.S.O., C. 132, SS. 15, 20).

In *Jay* v. *Robinson*, 25 Q.B.D., 467, a new point under the Married Women's Property Act arose. By sec. 13 (see R.S.O., c. 132, s. 15) it is provided that