The court decided that such an action as the one spoken of could be maintained by the county; thinking "that the civil responsibility, which we are of opinion does devolve upon a county, to answer in damages for an injury sustained by the non-repair of a bridge or highway, carries along with it the correlative right to protect that property, and to maintain an action against any one for the wilful damage to or destruction of it."

As to the case in point the court considered that the verdict for plaintiffs should stand, seeing nothing in the evidence which precluded the plaintiffs from recovering.

THE REGISTRY ACT.

Every new statute has been from time immemorial a more or less fruitful subject of discussion and litigation. The one we now refer to is no exception to the rule, at all events so far as discussion is concerned. The time has not yet arrived for litigation as to any of its provisions—that time may come and probably will, unless amateur conveyancers and even some of those who ought to be "learned in the law" are a little more careful than are some we know of.

One of the points in dispute is, are two witnesses necessary for the proper registration of a deed? One used to be sufficient for a deed, two were necessary for a memorial; but memorials are done away with and in their place is put a duplicate original, or if no duplicate, then *the* instrument must be left in the Registry office. The affidavit now required may be and probably will be an additional protection against fraud, but then it is not absolutely necessary so far as we see that the witness should state that he knows the parties or any one of the parties. Could the Registrar refuse to register the deed without such a statement of knowledge, we imagine not. It is also argued that the first part of section 39 uses the words "one of the witnesses to such instrument," and section 46 speaks of "the witnesses to any instrument." It is impossible to say with certainty what the Legislature intended—there is nothing express upon the point, and we are left to our own individual judgment on the point. The cautious ones take the not very troublesome precaution of having two witnesses, others confident in their opinion only require one.

Some again say that there should be duplicate affidavits, one on each instrument (when executed in duplicate). We can scarcely think that this is necessary, but it is very commonly done. It is, say the careful ones "better to be sure than sorry." But whilst speaking on the subject of affidavits, we must warn such of our readers as need the caution not to trust implicitly to all the forms of affidavits that are to be found on the backs of printed deeds and mortgages, supposed by the vendors thereof to be in accordance with the statute. In some of these there is no such statement of the name, place of residence and calling of the witness, as some assert the act requires. It appears to be necessary, say they, an eminent equity counsel to the contrary notwithstanding, that this statement should be a substantive part of the affidavit.

It has been suggested, and the suggestion is a good one, that instruments executed in duplicate should shew the fact by a short declaration at the commencement after the words "This Indenture," or in some other convenient place.

No certificate of identification such as was formerly required in the case of instruments executed out of Upper Canada appears to be necessary under the new act. It is also to be noticed that the affidavit of execution must be made *on* the instrument (sec. 40) and it will not be sufficient as it formerly was *to annex it.*

Some persons have suggested difficulties in the reading of section 36, though we do not at present see the force of the objections raised. There are also some unimportant mistakes in some of the forms.

Sect. 40 of the act as amended in committee of the session previous to the one in which it was ultimately passed contained certain clauses which are not now to be found under the corresponding section (sec. 39) in the present act. They were these

"6. But if he do not know them or do not know the whole of them, he shall state the fact;

"7. And as to such of them as he does not know, he shall state the circumstances which lead him to believe that the party or parties whom he does not know and whose signature or signatures he attests, is or are in truth the party or parties named in the instrument, such as—that the party declared himself to be the person in question, and the witness had no reason to doubt the truth of the same, or that the party whom the witness does not know was identified to him by such person [naming and describing him] who is a