POINTS OF PRACTICE IN THE COUNTY COURTS.

We have much pleasure in giving a prominent place to the subjoined letter from *Judge Chewett*. It is by communications of the kind that the practical value of the *Law Journal* to Local Courts' practitioners is made apparent, and the growth of an uniform procedure encouraged—and we are sure our readers will appreciate the learned Judge's manifest desire to promote efficiency in the system he has so many fellow-laborers in working under.

GENTLEMEN:—

In compliance with request in *Law Journal* to see how far Practice agrees in different Counties:

In Essex, as to Costs—The same view was taken as in *Coulter v. Willoughby*, in Simcoe, by *Judge Gowan*, and afterwards by *Mr. Justice Burns*, in *Chard v. Lout*, U. C. L. J., 227.

Issue Books are delivered and Records *entered merely*, (without being sealed or examined and passed by Clerk) as in Superior Courts, as being the correct practice under 19th sec. C. L. P. Acts—there being nothing in the unrepealed 30 sec. 8 Vic., cap. 13, *preventing* it, *but rather* requiring it. The words are, "plaintiff shall prepare and enter N. P. Record with Clerk."

As to time to plead reply, &c., the 9th section of 8 Vic., cap. 13, is considered as *virtually* repealed by 102 and 112 secs. C. L. P. Act, adopted in County Court Act—thereby allowing eight days instead of four. The 46th sec., 8 Vic., requiring prisoner to plead in four days, *is* repealed—no doubt with the intention of allowing eight days in *all* cases in *County Courts*, which was often *really* necessary under the old practice. The 22nd and 24th secs. C. L. P. Act made applicable to County Court, when defendant in custody, or on special bail, makes proceedings to judgment, same as in Superior Court.

Yours, &c., A. CHEWETT.

SANDWICH, Feb. 7, 1857.

THE COMMON SCHOOL LAW.

We direct attention to an important decision by *Judge Cooper*, (*Regina ex rel. Walker v. Reynas*,) published in this number: the copy has been corrected by the learned Judge.

The subject is very fully examined by *Judge Cooper* and difficulties disclosed, which are likely to prevent the provision for the trial of contested elections being satisfactorily acted upon by the local Judges. It is most important that there should be no vague legislation respecting our school system, and when reasonable doubts occur they should be removed by the Legislature.

MONTHLY REPERTORY.

COMMON LAW.

EX. ANDREWS v. SANDERSON AND NICHOLS. *Jan.* 30.

Execution—Sheriff—Ca. Sa. after seizure under Fi. Fa. abandoned—Returned.

Where goods have been seized under a *Fi. Fa.*, and the Sheriff has abandoned the seizure at the request of the execution creditor, a *Ca. Sa.* cannot be executed until the Sheriff has made a Return to the *Fi. Fa.*

EX. THOMAS v. PACKER. *Jan.* 28.

Landlord and Tenant—Condition of Re-entry—Forfeiture by nonpayment of rent—Conditions implied where tenant holds over.

A tenant held over under a Lease containing a condition for re-entry on nonpayment of rent and paid rent. *Held*, that tenancy from year to year thus created was subject to the condition.

EX. TURNER AND STEERS v. JONES. *Feb.* 9, 11.

Attachment of debts—Effect of attachment order—Payment under attachment order—Notes given by garnishee to judgment creditor—Bankruptcy of judgment debtor—Statute 17 & 18 *Vic., cap.* 125, *secs.* 61, 62, 65.

G., a judgment debtor, had a claim against J. for £300, payable under a contract of sale, by which J. agreed to pay G. £100—£100 in cash, and the residue by three bills for £100 each, payable at the end of June, July and December respectively. A judgment creditor of G. served upon J., at a period anterior to the time the first bill would have become due, and when no bills had been given, an order to attach all debts due or accruing to G. to satisfy a judgment of £501 against G., and requiring him to show cause why he should not pay the money to the judgment creditor of G. J. (the garnishee) gave the judgment creditor his three promissory notes for £100 each, payable at the times when the bills were to fall due under the contract with G. (the judgment debtor.) G. became a bankrupt.

Held, that his assignees were entitled to recover the money from J. (the garnishee) as the service of the order of attachment, and the giving of the promissory notes did not discharge the debt as against the assignees of the judgment debtor, or prevent its passing to them.

Semble, first, that in order to discharge the debt as against the judgment debtor, payment to the judgment creditor by the garnishee must be under the compulsion of an order requiring him to pay, or under the process of the Court, and the mere order of attachment is not sufficient to justify him in paying the judgment creditor. Second, that to discharge the debt as against the judgment debtor, the garnishee must do what his obligation to him requires.

C.P. VORLEY v. BARRETT. *Nov.* 7.

Pleading—Equitable replication—Principal and surety—Discharge of principal by mistake.

Declaration by a co-surety for money paid. Plea, that the plaintiff had discharged the principal without the defendant's consent. Replication on equitable grounds: that the principal was discharged by a mistake in the drawing up of the agreement contrary to the true intention of the parties; and that the real and true agreement was in all respects performed by the parties thereto. *Held*, that the replication was a good answer to the plea.