[We thank our correspondent for his communication. The question about costs is a difficult one to deal with—the chief difficulty being to determine what is substance and what is form. It is necessary for a conviction to state the offence with which the party is charged, and a defect in this respect is deemed matter of substance. If no offence in law is shown on the face of the conviction, it would be idle to submit to a jury the determination of the question whether it is true in fact Discussions about costs are often more troublesome and wearisome than the disposal of questions raised as to the sufficiency of the facts in law to constitute the offence, or sufficiency of the conviction in form to disclose the offence. And in some counties it has been found that to follow the general rule of allowing costs to abide the event, though perhaps working hardship in some cases, upon the whole works well, and greatly tends to the speedy and sound administration of criminal justice.—Eds. L. J.]

Attorney and Clerk—Service—Sufficiency of service—Benchers.

To the Editors of the Law Journal.

Gentlemen,—Answers to the following questions will be acceptable to several articled clerks.

1. If an articled clerk serve an attorney for 5 years, but was not 16 until 6 months after the execution of his articles, is the service sufficient?

2. If an attorney omit to state in his affidavit filed with his clerk's articles that he was "a practising attorney," but swears that he was "duly admitted, and resided at Toronto," will he be be allowed to correct the omission by a subsequent affidavit?

Awaiting your reply in the *Law Journal*.

I am, yours, &c.,

Toronto, 9th Feb'y, 1864. Articled Clerk.

[1. We think, as at present advised, that the service would be sufficient.

2. An attorney may be "duly admitted," and "resident in Toronto," and yet not "a practising attorney." We are by no means clear that the statute requires *this* affidavit to state that he is a practising attorney. Supposing it to be necessary, we cannot undertake to say whether or not the Benchers would allow the omission to be corrected by filing a subsequent affidavit. What they may in their discretion see fit to do or not to do, it is impossible for us to divine. Our correspondent had better give them a trial.—Eds. L. J.]

Unpatented Lands—Liability to taxes prior to Stat. 27 Vic., cap. 19.

To the Editors of the Law Journal.

Gentlemen,—You will confer a favour on an old subscriber by giving your opinion in reply to the following question:—

Are unpatented lands in Upper Canada liable to taxation before the enactment of ch. 19, 27 Vic, supposing lands to be leased on a license of occupation issued to occupants by the Crown?

Yours, &c.,

Owen Sound, February, 21, 1864. Aliquis.

[We can do no better than refer our correspondent to our remarks to a letter inserted under "General Correspondence" 9 U. C. L. J., p. 83. He will there find the information which he desires.—Eds. L. J.]

Chambers only once a week—Remedy.

To the Editors of the Law Journal.

It is said that during the coming Assizes for the city of of Toronto and the united counties of York and Peel, Chief Justice Draper will only hold Chambers once a week! If this be done it will be found that great inconvenience will be the result to the profession in the country: in fact the legal business of Upper Canada will be to a great extent stopped.

Judges of assize have power, under certain circumstances, to appoint Queen's counsel to take their place. I would respectfully suggest that during term and during the sittings of the courts of assize in Toronto, power should be given to the judges to nominate and appoint a Queen's counsel or barrister in good standing to hold Practice Court and Chambers. Either this should be done, or else provision should be made for the appointment of a Practice Court Judge, whose exclusive duty it should be to sit in Practice Court and Chambers.

Yours, Lex.

Hamilton, February 29th, 1864.

[The proposal for the appointment of a Practice Court Judge does not, we believe, meet with favor from the Judges. Some of the Judges say that attendance at Chambers is necessary to keep them from becoming rusty in the practice. The suggestion as to the occasional appointment of a Queen's counsel or barrister in good standing is deserving of serious attention. We recommend it to the consideration of the law officers of the Crown.—Eds. L. J.]

Municipal by-laws—Fine—Imprisonment—Necessity for distress.

To the Editors of the U. C. Law Journal.

Gentlemen,—For an offence under the by-laws, has the mayor authority to state in his order that, in case of non-payment of fine and costs, the offender shall be committed, at the expiration of the time given for the payment of the same, to gaol; or must a distress warrant issue, followed by commitment if no goods are found? The statute seems to favor the latter idea. Con. Stat. U.C. c. 54, sec. 243, sub-secs. 6, 7, 8.

Your answer on this point will confer a favor.

I am, Gentlemen, your obedient servant,

John Twigg, T. C.

Picton, March 1, 1864.

[The power of imprisoning is given either as an original punishment or as the means of enforcing payment of a pecuniary fine. It is in the latter view that the power to imprison appears to be used in the section to which our correspondent refers. And where the power to imprison is merely subsidiary to the enforcing of a fine, a magistrate cannot in general legally commit till an opportunity be given of ascertaining the want of sufficient goods to answer the amount of the fine. (See *In re Slater and Wells*, 9 U. C. L. J. 21)—Eds. L. J.]