

by fraud, is by motion in the cause: *Bank v. Huntington*, 13 Abb. Pr. (N. Y.), 402; *Brown v. Nichols*, 42 N. Y., 26; *Vilas v. Plattsburgh & M. R. Co.* (N. Y.), 25 N. E. Rep., 941.

The validity of such a judgment cannot be called in question by *audita querela*: *Allesley v. Colley*, Cro. Jac., 695; *Spalding v. Swift*, 18 Vt., 214; *Abbott v. Dutton*, 44 Vt., 546.

In an action on a foreign judgment, as has been seen, the want of authority to appear may be set up

as a defence; but it should be pleaded specially. Proof of it is not admissible on a plea of *nul tie record*: *Hill v. Mendenhall*, 21 Wall. (U. S.), 453.

Only the party affected can complain of the appearance of an unauthorized attorney for a defendant; neither the plaintiff nor a stranger to the record will be permitted to do so: *Bryans v. Taylor*, Wright (Ohio), 245; *Baldwin v. Foss*, 14 Neb., 455; *Bodge v. Butler*, 57 N. H., 204.

ARDEMUS STEWART.

EDITORIAL NOTES.

AT the beginning of the second year of the present editorial management of THE AMERICAN LAW REGISTER AND REVIEW, it is, perhaps, permissible to omit for once the usual discussions of legal topics in this department, to review work accomplished, and to take our subscribers into our confidence and discuss with them what we hope to do for the improvement of the magazine in the immediate future.

Our plan of work in the past has been to develop and perfect the two departments of the magazine which were in existence when we came into editorial control. One of these departments was devoted to Leading Articles, the other to Annotations of important cases. Through the kindness of many eminent members of the bar we have been able to give to our subscribers articles on many of the live topics of the day of interest to the profession. The legality of the Reading Railroad combine, and the various aspects of the Behring Sea difficulty with England have been discussed by writers of distinguished ability. Without making any invidious distinction between articles published, we feel that it can be said, with truth, that no

journal in the country contained a clearer presentation of the "Anthracite Coal Situation" which led to the Reading combine, than is to be found in Mr. GREENE'S article on that subject in the March number; nor has the "American Side of the Behring Sea Controversy" been more forcibly or fairly presented than by Mr. STANTON in the December number. The criticism, by the eminent equity lawyer, Mr. MCMURTRIE, of the opinion, expressed by the late Mr. Justice MILLER, in *Eilenbecker v. Plymouth County*, that the powers of a court of equity could be used to restrain a crime not affecting property; the interesting historical studies in English jurisprudence, by Mr. HAMPTON L. CARSON, the historian of the Supreme Court, the papers by Mr. STEWART, entitled, "Belief in the Preternatural and its Effects upon Disposition of Property," have received from many quarters the commendation they deserve.

The principal work of the editors during the past year, however, has been the enlargement and radical change in the department devoted to annotations or legal briefs on important questions of law. Beginning with the November number, THE AMERICAN LAW REGISTER AND REVIEW began the publication of five annotations in each issue instead of one, as theretofore, at the same time insuring the correctness and general excellence of the annotations themselves by having each manuscript examined and criticized in advance of publication by a specialist on the topic discussed. This last improvement was rendered possible only by the kindness of those who, in the interest of their profession, accepted positions as editors-in-chief of the various departments into which the law has been divided, for the purpose of annotations. The editors feel that this department of THE AMERICAN LAW REGISTER AND REVIEW is probably its most important feature and the one which gives it its peculiar value to the practicing lawyer. With 60 briefs a year, at the end of five years our subscribers will have 300 briefs, which will deal with questions representing the whole field of law; and a lawyer will then seldom

come upon a point of law in his practice which will not be found critically discussed in the pages of this journal. Our object will be to publish a magazine to which the lawyer, with a brief to write or a point of law to look up, will turn as regularly to as he now does to his digest.

Part of what it is hoped to accomplish during the coming year is indicated in this number, in the great improvement in the department of "Abstracts of Recent Cases," now termed "Digest of Important Cases, Reported in December." The great size of the "Annual Digest" of the West Publishing Company renders it physically impossible for a lawyer to read even the syllabi of the 20,000 reported cases. It has often been suggested to us that *THE AMERICAN LAW REGISTER AND REVIEW* could in this way perform a much-needed work for the lawyer who desires to keep up with the principal decisions of the Appellate Courts but has not the time to wade through a mass of comparatively unimportant decisions. We have heretofore attempted to meet this want in the abstracts published at the end of each number. The department was unsatisfactory to the editors, because they could not feel sure they had secured every case of real importance. The new plan, which goes into effect with the present number, is expected to overcome this difficulty. As each case is reported by the West Publishing Company a copy of the report is sent to the specialist having exclusive charge of the field of law covering the point involved in the case. The specialist reads all the cases and makes an abstract of the best, adding such notes and comments as may be necessary to understand the importance of the decision and its bearing on other cases. In this way it is hoped that a reader of *THE AMERICAN LAW REGISTER AND REVIEW* will, with the minimum of time and trouble, be able to keep himself informed as to the current development of legal principles in this country and in England.

Another improvement which we expect to introduce commencing with the present number, is in the review of

legal books. The rule that no book (excepting digests and the like) will be reviewed until it has been read from cover to cover will be rigorously adhered to, and the reviews will in the future, as in the past, aim to be a fair statement of the reviewer's opinion as to the value of the work, and not an advertisement of the book in question. But, hereafter, all books received from the publishers before the first of the month will be noticed in the ensuing month's issue of the periodical, under "Books Received," and invariably reviewed in the issue of the following month. This plan has, we have found, the double advantage of enabling us to make arrangements for the prompt receipt of all legal books from various publishers, and to insure our subscribers that practically every legal work published will be carefully reviewed within less than two months of its publication.

The February number will see the introduction of still another new feature; that is, a synopsis of the principal articles appearing in other legal magazines and periodicals. This department will be conducted by George G. Mercer, Esq. That gentleman's high standing at the Philadelphia bar will be a guarantee of the thoroughness with which the work will be carried out.

The editors have other plans for the improvement of THE AMERICAN LAW REGISTER AND REVIEW, which it is hoped to announce as complete in a subsequent number of the magazine. In the meantime any criticism or advice or suggestion from our subscribers will be most gladly received and considered.

We believe there is a place for a thoroughly practical legal magazine which will aim both at a high standard of literary excellence and at making itself *useful* to the working lawyer. We look forward with confidence to the continued support of the bar of the United States as long as we continue to fulfil our promises.