this method really pays in the long run. A case may be overlooked by the opponent, but it may be discovered by the Court, and is considered and acted on very often without having been considered or discussed by counsel for the client to whose contention it is opposed. This, of itself, is a disadvantage; but there is the still greater disadvantage that the counsel who fail to bring all the material cases to the attention of the Court, leave the impression that their not doing so is due to a want of either industry, or perfect honesty. A friend who has perused what we have written, suggests that it would be well to add "that it must always be remembered that an advocate is not merely an advocate, but also *amicus curiæ*," a sentiment in which we concur.

RECENT ENGLISH DECISIONS.

LEGACY TO EXECUTOR—GIFT ANNEXED TO OFFICE.

Turning now to the cases in the Chancery Division, the first that calls for observation is *In re Appleton, Barber* v. *Tebbitt*, 29 Chy. D. 893, a decision of the Court of Appeal. The question in dispute was whether a legacy given to a legatee, who by a subsequent clause in the will was appointed executor, was annexed to the office, or whether the legatee could renounce the executorship, and at the same time claim the legacy. Chitty, J., the Judge of first instance, held the legacy was annexed to the office, and this opinion was confirmed by the appellate Court. The fact that there were other legacies of different amounts given to other persons, also named as executors, was held to make no difference, notwithstanding the contrary opinion expressed by James, V.C., in *Jarvis* v. *Lawrence*, 8 Eq. 345, 347.

BUILDING SOCIETY—BORROWING POWERS—ULTRA VIRES—MISTAKE OF LAW—SUBROGATION.

The case of *Blackburn* v. *Cunliffe*, 29 Chy. D. 902, is deserving of notice, notwithstanding that it turns to some extent on the effect of statutes of merely local operation. This action was brought by the liquidators of a building society to recover moneys which had been paid by the society to the defendants in settlement of certain overdrafts in a banking account, kept by the society with the defendants. The society had no power to borrow money; but the defendants had from time to time allowed the society to make large overdrafts—and the directors signed a memorandum, giving the defendants a lien upon all the society's deeds to secure the floating balance due to the defendants. Annual balance sheets, showing the amounts due to the defendants, were sent to all the members of the society, and adopted at the annual meetings—and moneys were from time to time applied on account of the indebtedness. It was argued that the liquidators were estopped from recovering the moneys so applied on the ground that the moneys had been paid in mistake of law, and also on the ground of acquiescence by the members of the society. But the Court of Appeal, affirming the Vice-Chancellor of the County Palatine of Lancaster, held that neither ground afforded any defence to the action—but the Court varied the judgment appealed from, to the extent of allowing the defendants to stand in the position of parties whose claims had been paid out of the overdrafts, and also declared the defendants entitled to a lien on all mortgage securities taken by the society, in respect of loans made out of the moneys overdrawn from the defendants, in priority to any claim of the society for moneys advanced thereon, out of its own proper funds.

INFANT MAINTENANCE—DISCRETION OF TRUSTEES—JURISDICTION.

The Court of Appeal in *Re Lofthouse*, 29 Chy. D. 921, reversed an order of Bacon, V.C., made upon the application of an infant by her next friend for maintenance. The application was made on motion in a summary way. The will under which the infant was interested empowered the trustees for the time being to apply all, or any part of the yearly income of the share of the infant, in or towards the maintenance and education, or otherwise for the benefit, of the infant. The income amounted to £538 5s. 3d. The trustees opposed the application, claiming that the Court had no jurisdiction to interfere with this discretion. Bacon, V.C., however, made an order for an allowance of £400 a year. The trustees ap-