to dealers to be shipped directly from the parent, it was said that the holding company was not doing business within the state and could not there be served. In that case the parent was sued on a cause of action arising out of a breach of contract it had itself made and the subsidiary was in no way involved except as a possible basis for acquiring jurisdiction over the parent. *Cannon Mfg. Co. v. Cudahy Packing Co., supra.* However, in the *Cudahy* case the court expressly distinguishes that case from such a case as the principal one where an attempt is made to hold the parent liable for an act or omission of the subsidiary.

For the purpose of imposing liability, the corporate identity will be disregarded "where one corporation is so organized and controlled, and its affairs are so conducted, that it is in fact a mere instrumentality or adjunct of another corporation." *Industrial Research Corporation v. General Motors Corporation, supra; Chicago, M. & St. P. R. R. Co. v. Minneapolis Civic & Comm. Assn.* (1918), 247 U. S. 490. In determining whether such a situation exists, each case must be considered on its facts, and no general rule can be laid down. Important evidentiary facts are the identity of stockholders, identity of officers, the manner of keeping books and records and the methods of conducting the corporate business as a separate concern or as a mere department of the other concern. Ballantine, Parent and Subsidiary Corporations, 14 CAL. L. REV. 12. In the principal case, the subsidiaries were held to be mere conveniences employed by the principal corporation in the transaction of its business. The chief value of the case lies in the fact that it holds not only that the parent corporation might be held liable for the patent infringement of the subsidiary, but that the presence of the latter in the state is a basis for acquiring jurisdiction over the former. J. N., '29.

HOMICIDE—CASTLE DOCTRINE.—Defendant invited his brother-in-law home to dinner. While there, both brandishing fire-arms, the defendant shot and killed the brother-in-law. Self defense could not be made out, for the deceased was in a defensive attitude. *Held,* that the "defense of castle doctrine" does not apply, and the instruction thereon was properly refused, the deceased having been present by invitation and not as an intruder. *Oney v. Commonwealth* (1928), 225 Ky. 590, 9 S. W. (2d) 723.

The universally accepted doctrine has been stated thus: "The dwelling house of a man is his castle and he may not only defend the same, if necessary or apparently so, against one who manifestly endeavors to enter the same in a wanton, riotous, or violent manner, or with intent to commit a felony on him or some inmate of his household or guest, or the habitation itself, but also against one who is only attempting to commit a misdemeanor of a forcible entry, even to the extent of killing the assailant if such degree of force be reasonably necessary to accomplish the purpose of preventing a forcible entry against his will. *State v. Bradley* (1923), 126 S. C. 528, 120 S. E. 240; see also 30 C. J. 83; Bishop, CRIMINAL LAW, (9th ed.), v. 1, sec. 858. Bishop goes on to say that this defense does not apply

in two situations: (1) Where the possessor of the dwelling "waives castle" by permitting another to enter without a breaking into the house; (2) "If a man enters another's dwelling-house peaceably on an implied license, he cannot be ejected except on request to leave, followed by no more than the necessary and proper force, even though misbehaving himself therein." Idem., sec. 859. It will be seen that this second classification, "Putting out of castle," is merely an enlargement on the first and shows that both apply to the same situation, under which the principal case falls.

We may remark that the above exception really grows out of the statement of the rule which assumes a breaking which is not permitted. But the quotation from Bishop implies that under certain conditions, such as a request to leave and the lapse of a reasonable time, the defense of castle may renew itself and become good even though the first entry was by license. *People v. Hubbard* (1923), 64 Cal. A. 27, 220 P. 315; *State v. Bradley* (1923), 126 S. C. 528, 120 S. E. 240; *Sargent v. State* (1895), 35 Tex. Cr. App. 325, 33 S. W. 264. Here we may note a possible distinction between Bishop's two exceptions. Plainer proof of a request to leave might be required where the license to enter was express and not merely implied.

The exception usually invoked in favor of invited guests, *State v. McIntosh* (1894), 40 S. C. 349, 18 S. E. 1033, also applies to any persons with implied license to enter the dwelling, as members of the family, *Commonwealth v. Johnson* (1906), 213 Pa. 432, 62 A. 1064; to a suitor for the hand of a daughter of the family usually asked into the house, *State v. Bradley* (1923), 126 S. C. 528, 120 S. E. 240; to a customer wishing to buy eggs according to custom, *Fortune v. Commonwealth* (1922), 133 Va. 669, 112 S. E. 861; or to a relative visiting the home, *Eversole v. Commonwealth* (Ky., 1896), 34 S. W. 231. Even more interesting is the fact that the protection extends to any persons present through legal right. For example, a person attempting to execute a writ of possession on the dwelling and household goods may not be kept out forcibly. *Williams v. State* (1906), 147 Ala. 10, 41 S. 992. The reason could well be that otherwise the writ could not be executed. Also, officers either by virtue of a search warrant, or peaceably entering as the owner allows them to do, are not intruders for this purpose. *Lakey v. State* (1921), 206 Ala. 180, 89 S. 605.

The "castle," ordinarily a private dwelling, may be a boarding house, *Wells v. State* (1911), 63 Tex. Cr. App. 618, 141 S. W. 96; a hotel, *Sargent v. State* (1895), 35 Tex. Cr. A. 325, 33 S. W. 364; or a house rented by a man who lives there with a woman not his wife, *People v. Hubbard* (1923), 64 Cal. A. 27, 220 P. 315. When the husband and wife live apart, the husband has no right to enter the wife's dwelling with force and against her will, especially when his purpose is not to enforce his marital rights. *People v. Watson* (1913), 165 Cal. 645, 133 P. 298.

The present case causes little difficulty, for it involves an ordinary dwelling and a normal invitation to dinner after a few social drinks, and lacks any evidence of a request to leave. Under such circumstances, no one could reasonably wish to give the murderer the complete or partial justification,

according to the findings of necessity by the jury, that the castle doctrine would afford. The killing was wanton, and it was proper to punish it fully.

R. J. H., '30.

HOMICIDE—INSANITY AS AFFECTING DEGREE OF GUILT.—The defendant was charged with murder and entered two pleas: not guilty, and not guilty by reason of insanity. In a preliminary trial upon the latter plea, accused was found sane. *Held*, it was not error to reject evidence of the defendant's mental condition, offered to reduce the grade of the homicide under the plea of not guilty. *People v. Troche* (Cal., 1928), 273 P. 767. The doctrine of partial insanity is not recognized by the courts of California, and insanity is a complete defense or none at all.

While this, no doubt, is the majority view and prevails both in those states where the defense of insanity is available under a plea of not guilty and in those where such a defense must be specially pleaded, the courts generally have allowed evidence of intoxication and of "heat of blood," not as a complete defense to homicide, but to indicate a condition of the mind which renders it incapable of sustaining the deliberation and premeditation necessary to support a charge of first degree murder. *State v. Sporegrove* (1907), 134 Ia. 599, 112 N. W. 83; *Commonwealth v. Colando* (1911), 281 Pa. St. 343, 80 A. 571. Furthermore, the law which recognizes but one degree of insanity has never precluded the introduction of evidence as to the defendant's state of mind at the time of the commission of the crime when presented together with the surrounding circumstances to reveal a lack of the requisite intent in the defendant. *Sage v. State* (1883), 91 Ind. 141. Thus it seems inconsistent and a matter purely of terminology to refuse to recognize insanity which will lower the degree of crime for which a person may be held responsible and at the same time to permit the condition of the defendant's mind as influenced by outside circumstances to be shown for the purpose of determining the gravity of the offense committed.

Notwithstanding the very simple "right and wrong" test as applied by the majority of the courts, insanity is difficult of precise definition and covers a variety of mental diseases, only the minority of which constitute legal irresponsibility. Because of this and the tendency, whether conscious or unconscious, of juries to permit a lay conception of insanity to influence them, they have declared, in the face of obvious knowledge in the defendant of right and wrong, such defendant insane. By the adoption of the doctrine of partial insanity, which allows a reduction in the degree of the crime charged, the liberation of persons who are not legally insane would be somewhat diminished, if not entirely eliminated.

There are at least two states which have recognized the doctrine of partial insanity. The supreme court of Utah in *State v. Anselmo* (1915), 46 Utah 137, 148 P. 1071, holds: "In determining the question of such design and premeditation, they [the jury] should take into consideration all the facts and circumstances developed at the trial as well as those relating to the mental condition including that of intoxication of the accused where such