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## Corporation—Service of Process—Service of Parent Company Through Subsidiary

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*Ewing v. State* (1921), 18 Ala. A. 166, 90 S. 136; *Edwards v. State* (1920), 150 Ga. 754, 105 S. E. 363; *State v. Campbell* (1921), 182 N. C. 911, 110 S. E. 86.

The language of the amendment prohibits manufacture. This Louisiana statute permits manufacture for home use, i. e., "home-brew." It is an interesting question whether the amendment may be construed so as to permit the manufacture of "home-brew." In all cases where the state has enacted a prohibiting law (except Louisiana) there is no exception in favor of "home-brew." It seems to the writer to be extremely doubtful whether the general prohibition of the amendment is not being violated by the Louisiana statute permitting the manufacture of "home-brew by households." The fact that there are few or no prosecutions for making "home-brew" is no indication of the legality of such manufacture; it is a matter of sufferance, tacit permission, but it implies no legality. M. E. C., '29.

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CORPORATION—SERVICE OF PROCESS—SERVICE OF PARENT COMPANY THROUGH SUBSIDIARY.—A suit was brought for patent infringement, an attempt being made to hold the General Motors Corporation liable for the acts of its subsidiary corporations. The action was brought in Ohio, although the General Motors Corporation is a Delaware corporation which does no business in Ohio in its own name. However, the latter company owned the capital stock of the subsidiary corporations which did business in Ohio; and the advertising and annual reports of the General Motors Corporation treated the subsidiary companies as mere divisions and adjuncts of the parent company. It was alleged that the holding company controlled and directed the policies and business of the subsidiary companies. Service was had on the managers of the subsidiary companies in Ohio in behalf of the General Motors Corporation. On a motion to quash service, *held*, that valid service had been made on an agent engaged in conducting the business of the General Motors Corporation. *Industrial Research Corporation v. General Motors Corporation* (1928), 29 F. (2d) 623.

A foreign corporation must be engaged in business within a state in order to be validly served with process. *Riverside Mills v. Menejee* (1915), 237 U. S. 189. The mere fact that it operates through a subsidiary does not necessarily subject the parent corporation to the jurisdiction of the state. *Proctor and Gamble v. Newton* (1923), 289 F. 1013; *Cannon Mfg. Co. v. Cudahy Packing Co.* (1925), 267 U. S. 333. The problem involved where the presence of the subsidiary corporation in the state is asserted as a basis of jurisdiction over the dominant corporation is entirely different from that involved where one seeks to hold the parent corporation liable for the debts, contracts or torts of the subsidiary. Ballantine, Parent and Subsidiary Corporations, 14 CAL. L. REV. 12. Thus, where a foreign corporation marketed its products through a subsidiary which it completely dominated through stock ownership and otherwise, but which maintained a distinct corporate entity, and which did not act as the agent of the parent but instead bought the goods from the parent and sold them

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.

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**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